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Supreme Court, U.S.
FILED

No. 01265 FEB 5 - 2001

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF
THE UNITED STATES

OCTOBER TERM, 2000

Salvatore Moretti,
Petitioner,
vs.
United Water Resources, Inc., City of Hackensack, and State of New Jersey,
Respondents.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF NEW JERSEY

Salvatore Moretti, Pro Se
Canal Street Station
P. O. Box 1306
New York, New York 10013-0876

Vol. Two of Two

EDITOR'S NOTE

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

"the New Jersey State Court action is a simple residential foreclosure (at page 294a)." Shepard quotes only part of court rule R. 4:4-4(a) to the effect that service upon a competent 14 year old is sufficient. However, the court rule provides that the 14 year old be a member of the household, and there is no proof that service was made upon a member of the household.

In order to defend the service of the summons and complaint, Patel submitted a letter brief to the New Jersey Supreme Court on September 11, 1998 (297a-304a) in which he states that the defendant (Moretti) is playing fast and loose with the judicial system. He supports this statement by quoting paragraph 7 of Moretti's September 20, 1995 certification that Beverly Freeman glued the front and rear door shut to 390 Park Street, Hackensack, "preventing my entering my own home, where I am an owner occupant." Patel misinterprets this statement and suggests that Moretti is inconsistent in claiming to live at both 390 Park street and 391 Park street. The intent of the statement about Freeman's occupying a room at 390 Park Street, inviting in a friend, and taking over the house, is to provide an instance where mere occupants are not members of the household; their interests and management do not coincide with the head of the household. Despite the actions of tenants who commit tenant vandalism, the sheriff's department served someone inside the building at 390 Park Street and claimed service conforming to the court rule. The sheriff's department was on notice that tenant vandalism resulted in the Bergen county jail incarceration of Moretti on a harassment complaint (198a - History File of an Inmate - Salvatore Moretti, Harassment, C-57681, 199a). Patel, despite his law degree, claims that the inconsistent statements by appellant Moretti should not be tolerated and "such changes in factual and legal position should be barred under the doctrine of Judicial Estoppel. Therefore, personal jurisdiction should be sustained by this Court." (page 299a)

In fact, the law office of Fein, Such, Kahn, & Shepard, whether speaking through Neil Gross, Rajan Patel, or James E.

Shepard, relied upon service of process under New Jersey Court Rule 4:4-4 Summons, Personal Service. That court rule states that when real property ownership rights are involved, personal service is required. Not to do so would result in thousands of foreclosure sales where men, women, or children between the ages of 14 and 17, could merely stand at the front door and receive summonses and complaints from the sheriff's department, with the property owner never receiving his day in court. The identity of interests between the person receiving the summons and the filing of an appearance on behalf of the party in interest required under the court rule would not be met. Section 4 of the rule provides that summonses, together with a copy of the complaint, shall be served by the sheriff:

> (4) upon individual proprietor's and real property owners, provided the action arises out of a business in which the individual is engaged within this State or out of any real property or interest in real property in this State owned by the individual, by delivering a copy of the summons and complaint to the individual.

Patel argues in his September 11, 1998 brief at page 298a that "R. 4:4-4(a)(4) is not applicable to the case at bar because the within foreclosure action did not arise out of a business in which the individual was engaged in." The court rule states that R. 4:4-4(a)(4) must be followed if the action arises either out of a business in which the individual is engaged in within this State or out of any real property or interest in real property in this State owned by the individual. Patel appears to misunderstand the facts. Moretti was both a real property owner and a manger of income producing property, requiring office machines; in addition Moretti was proceeding pro se and possessed a law degree.

Moretti filed a Notice of Motion with the Chancery court dated March 8, 1998 (shown at page 15a) returnable March 20, 1998, thus Chase was on notice that he was trying to actively deal with the problem of mortgage repayment. Moretti

repeatedly appeared for oral argument, both on March 20, 1998, and thereafter, but to no avail. His answer was ignored. His court room appearances were ignored. The result was that Chase reaped a windfall profit. In fact, when it appeared that the "simple" mortgage foreclosure was not so simple, the Fein, Such, Kahn & Shepard law office was replaced by the Cooper, Perskie, April, Niedelman, Wagenheim, & Levenson law office as shown in the letter brief dated February 4, 1999 (page 271a). We may surmise that the failure to transfer the case to the contested docket resulted in the replacement of the Fein, Such law firm by the Cooper, Perskie law firm.

If we refer to the records of the Clerk of the Superior Court (page 12a) we see that Bank of New York answered (January 6, 1998), and Hackensack Water Company answered (February 5, 1998). Hackensack Water Company's answer is shown at page 173a - 175a. There is no answer shown as received by the Superior Court Clerk's Office on behalf of Moretti (at page 12a). There was a Miscellaneous Brief filed by Moretti (with a note - attorney required) December 5, 1997 and July 29, 1998. The court case file shows proof of service was filed for Moretti January 12, 1998. At page 300a, Rajan Patel argues in his September 11, 1998 brief that "plaintiff does not possess a filed stamped Answer (from Moretti) and believes no Answer was filed as Mr. Moretti failed to submit the proper filing fee to the Clerk's office." However, Patel then states that a November 18, 1997 letter (should this read November 3, 1997 letter) might be taken as an answer so that "on November 7, 1997, several days prior to the date defendant was served with the summons and complaint by the plaintiff (November 18, 1997), Mr. Moretti was on notice of the impending foreclosure action."

If the document at page 14a is shown as defendant Moretti' answer, why was not the matter transferred to the contested docket. That document states,

> I hereby enter my appearance as being in opposition to the claim made contained in the complaint filed by Chase Manhattan Bank on October 14, 1997. I await

receipt of the complaint in order to provide particulars

Moretti received at least one hundred notices from law firms, mortgage brokers, realtors, private investors, etc. most of them expressing interest in the vacant apartment house property or nearby properties. Since the November 3, 1997 letter is not shown as received by the Clerk of the Court, and there was no action taken by the Chancery court to transfer the action to the contested docket, nor for the Fein Such Kahn Shepard law office to transfer the case to the contested docket, Chase Mortgage Services should not now argue that due process was followed. The sheriff' service of process notes that after three attempts service was effected upon a member of the household. The reason for the failure of Moretti to be present was that he was busy working at his job. He had to earn money. Chase failed to loan Moretti money resulting in Moretti taking part-time jobs, thereby earning $15,000 in order to pay utility bills, etc.. The money went to pay court costs, fees, and transcript costs. The bank robbery deposition alone cost Citibank nearly $2,000, with Moretti's cost at about $250.

According to the August 16, 1998 certification by Rajan Patel (page 279a) paragraph 9, "default was entered against the defendant, Mr. Moretti, on February 13, 1998" Paragraph 10. A final Judgment and Writ of Execution were filed on June 1, 1998.

Appellant Moretti wrote on September 25, 1998 (page 32a) that there was a Sheriff's Sale conducted on September 23, 1998 and "I was advised T. Performance bought the property, but I saw no certified check, no cash and no attempt to pay for the property." The Sheriff's Notice of Sale, F16923-97 dated July 29, August 5, 12, 19 states that the property at 390 Park Street, Hackensack is to be sold "to pay and satisfy in the first place unto the said plaintiff the sum of $48,527.46, with lawful interest thereon; 20% of the purchase price in the form of a Certified Check or Cash is required at time of sale. The property shall be sold subject to all liens and encumbrances of record." In fact, no cash was paid. In fact, no check, certified

or otherwise was paid. Appellant Moretti stated these objections to the individuals conducting the sale but he was ignored. The sale was conducted on September 23, 1998 after two adjournments. Kevin O'Shea, representing himself as the president of T. Performance Corporation and appearing without an attorney at law, allegedly purchased the property at that time. T. Performance took possession of 390 Park Street, Hackensack, New Jersey on February 11, 1999 at 10:00 a.m. Based upon the procedural irregularities set forth above, it is clear this case was not conducted in accord with the applicable New Jersey Court Rules.

The new owner advised Moretti that the contents of the property would be destroyed upon move-in by being thrown into the garbage. In fact, a large industrial garbage dumpster was placed in the driveway and the contents of the house were thrown into the dumpster, filling it on February 11, 1999. The contents included a Sharp copying machine, document feeder, one thousand page cassette, and collator, executive desk chairs, dining room chairs, books (Compton's Encyclopedia, Legal Reference Works on law offices in the United States, Auto Insurance Law, etc.), legal files, twelve bookcases, eighty videocassettes, $750 of clothing, dishes, cooking utensils, hardware, lumber, storage shed, tools, clothing washer and dryer, etc. Moretti's request to the appellate division for an extension to move these items had been denied; Judge Escala's entered a final order on February 9, 1999 denying a stay of the execution of the writ of eviction (page 7a). Appellant Moretti filed a Notice of Appeal (page 1a) and a Case Information Statement (page 4a), both dated February 25, 1999.

Normally, the destruction of legal files recounted above would have prevented the timely filing of an appeal. The relation between the Bergen county sheriff's office conducting the three thousand foreclosure sales and law offices producing the paper work required for the sales should be looked into so that future abuses of process do not occur. Based upon the long history of ownership of the subject real property from 1980 to 1999 (and the loss of all equity in the real property at

390 Park Street despite making all mortgage payments on time [TRW form, pages 40a-46a] recounted in the statement under oath in the transcript of the New Jersey Tax Court on June 10, 1996, shown on pages 219a - 232a), Moretti had sufficient foresight to remove enough files to set forth the appeal within.

Due to the merging of banks, National Community Bank became Bank of New York, and then it became Chase Manhattan Bank; a concomitant change in policy resulted. The bank branch which Moretti dealt with on Main Street in Hackensack no longer loaned money to Moretti due to an inability to continue its investment in the community. This produced the default which the plaintiff Chase Manhattan Bank, a.k.a. Chase Mortgage Service, complains of herein. The first to file a complaint in court, to give testimony to this change in policy, was clearly Moretti. Moretti had even written to the Internal Revenue Service, 1111 Constitution Avenue, Washington, D.C. on February 11, 1995 that he was denied compensation for work at his Park street properties despite letter ruling 8639048, dated June 30, 1986. When he received no response, he filed suit in the United States Court of Federal Claims; this case went to the United States Court of Appeals for the Federal Circuit, Case no. 97-5115. Chase ignored the federal district court complaint Moretti filed (Moretti did not ignore the complaint Chase filed.) Chase failed to loan additional moneys subsequent to the filing of the federal complaint in Newark. In fact, the environmental problems disregarded by the Fein, Such, Kahn, and Shepard law office, and also disregarded by the Cooper, Perskie, April, et al. law office, cast doubt on whether the chancery court had jurisdiction to entertain the complaint filed in foreclosure on October 14, 1997, docketed F-16923-97 (page 60a). Although the court rules provide for the filing of foreclosure complaints and answers in the county of venue to afford opportunity for residents in the respective counties to file answers and appear in opposition, in the matter sub judice the trial court and the Chase law offices ignored appellant Moretti repeatedly. As a result, the final judgment entered on June 1, 1998 shown at

page 47a exemplifies the Trenton Chancery Judge Parrillo's receipt of an uncontested case, while the presiding judge of Bergen county chancery Arthur Lesemann was transferred from chancery to the appellate division and back to chancery and then back to the appellate division again during the relevant time period. Judge Marguerite T. Simon in Bergen county chancery court was the only remaining judge, but she repeatedly left the court room while appellant Moretti sat in the courtroom waiting to be heard. She claimed the court clerk had not placed anything on her docket sheet indicating that a hearing had been scheduled. Judge Gerald Escala was transferred from family court to the chancery division after judge Lesemann's removal, and likewise refused to consider oral argument, mark exhibits, conduct discovery, or perform the usual functions of the trial court judge. The opposing lawyers never came to court, despite repeated notices delivered to them which appear in the appendix attached to this appellate brief.

FACTUAL ALLEGATIONS

Appellant Moretti was one of the original group composing ROR Construction Corporation which purchased Block 418, lots 22 and 23 in 1958. The two lots were 150.17 feet deep by 120.25 feet in width. ROR purchased one of the properties by deed from L & C Holding Corporation dated September 29, 1958 and recorded October 2, 1958 in the Bergen County Clerk's Office in Deed Book 3978, page 463. The other lot was purchased from Dura J. Zwart, dated September 30, 1958 and recorded October 2, 1958 in the Bergen County Clerk's office in Deed Book 3978, page 466.

Despite Moretti's forty-one year history in the subject neighborhood, he was evicted from his home at 390 Park Street, Hackensack on February 11, 1999. Michael Jacobson=s certification dated December 10, 1998 is in support of the issuance of a writ of possession. The certification states as follows: (at page 85a)

1. I am an attorney at law of the State of New Jersey and a member of the law firm of Cooper Perskie

April Niedelman Wagenheim & Levenson, P.A., attorneys for the plaintiff in this captioned foreclosure action.

2. This certification is given as the foundation for and to support the Court's issuance of the Writ of Possession to facilitate the Sheriff of Bergen County evicting the former mortgagors at the mortgaged premises and who are not tenants protected by case law and the provisions of the New Jersey Tenant Anti-Eviction Statute (N.J.S. 2A:18-61.1 et seq.).

3. The premises for which the execution of the Writ of Possession is requested in this matter is as follows:

390 Park Street, Hackensack, New Jersey 07601

4. The following individuals and/or entities are not protected by the provisions of the New Jersey Tenant Anti-Eviction Statute, as enunciated in the New Jersey Supreme Court case of Chase v. Josephson. They are the former owners/mortgagors or the families of the former owners/mortgagors who are not protected by this statute and are as follows:

Salvatore Moretti

5. I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully (sic) false, I am subject to punishment.

DATED: Dec. 10, 1998 (s) Michael Jacobson, Esq.

Going back a quarter of a century ago to January 14, 1974, appellant Moretti wrote to then Hackensack mayor Michael D'Arminio, "as manager of the above named apartments [Park Court Apartments] located on Park Street in Hackensack, and as an officer of ROR Construction Corp., owner of those apartments, I have become aware over the last eight months of the hardships caused by the imposition of Rent Ordinance 1046 passed May 21, 1973 by the City of Hackensack. Rental increases were eventually allowed by the Hackensack Rent Control Board, and the management of the buildings

continued to improve services, and upgrade the buildings with window air conditioners."

On September 30, 1980 appellant Moretti purchased 390 Park Street, Hackensack, for $57,500; the deed was recorded at Deed Book 6593, Page 623 (Page 236a). Appellant Moretti financed the purchase with a loan from the National Community Bank on Main Street, Hackensack, in the amount of $45,000. By using 390 Park Street for storage of supplies which could no longer be kept at 391 Park Street, and by construction of a storage shed, outdoor snow removal equipment could be operated to keep the parking areas and walks free of snow and ice in the winter months.

The first floor of 390 Park Street was also used for office space to provide improved record keeping and on-site service. Appellant was graduated from New York Law School in 1985 and improved research facilities at that law school in Manhattan have assisted appellant in supplying the courts with superior research materials.

In 1985, appellant Moretti purchased the former site of the North Jersey Friendship House. On February 25, 1985, Olga deMartino and Joseph deMartino conveyed to appellant title to Block 418, lot 24, a vacant lot 66 foot wide by 150.17 foot in depth. The lot is adjacent to Park Court Apartments. The deed is recorded at Deed Book 6902, Page 780. The purchase price was $80,000.

As of 1989, the three Park Street lots under Moretti's ownership were as follows:

Block	Description	Assessment
Bl. 418, Lots 22,23	20 unit apartment house	$792,300
Bl. 418, Lot 24	vacant lot	$135,700
Bl. 415, Lot 8B	House,390 Park St.	$130,600

On July 7, 1995, appellant Moretti submitted a brief to the New Jersey Appellate Division, appealing judge Pizzuto's decision in Tax Court Case No. 8336-93; the Appellate Court docket number was A-4913-94T2. Note the following passage from the procedural history:

Appellant (Moretti) managed these apartments for

> twenty years and did all his own superintendant work, purchasing two additional lots, Block 418, Lot 24 due to undersized lot size, and Block 415, Lot 8B due to limited storage (snow removal and lawn maintenance equipment) and office space (copier, desk, files). Block 418, Lot 24 merged with Lots 22 and 23 and Block 415, Lot 8B was included in an amended complaint effective January 31, 1995YIn fact, the three lots have been utilized jointly since purchase in support of the twenty unit apartment building. Block 418, Lot 24 could not be built upon due to a sewer moratorium in effect since 1990. Block 415, Lot 8B was assessed $130,600 (decreased $18,600 in 1993) and is used for apartment house storage, containing an office; it is adjacent to the Gentile funeral parlor.

Appellant discussed the bankruptcy sale of 370 Park Street, Hackensack (a seventy-two unit apartment building constructed in 1982) after over one hundred fire alerts (the building was assessed $3,108,000 but Dr. Cocozziello sold the property back to the original owner in 1992 for $0 after 100 fire alerts, losing his entire equity). Appellant wrote the Hackensack tax assessor on September 14, 1995 that after appearance at the Bergen county tax board on September 1, 1995, Appeal No. 23-9500110, it was learned that the property record card listed 390 Park street as a two family. The house had one kitchen and only one entrance, and had been a single family for fifteen years. Why was it taxed as a two family? There was no response.

In order to deal with this panoply of problems, Appellant Moretti filed suit in federal district court in Newark, New Jersey; the suit was docketed as 92-4206 (HAA - Harold A. Ackerman). The suit was dismissed under R. 12(b)(6). Moretti discusses the discriminatory assessment practices of the city in connection with high labor costs as follows:

> Appellant was required to devote an increasing amount of time to labor on site, up to 100 hours per

week, excluding around the clock presence to avoid the perennial fire alerts plaguing neighborhood buildings (each fire alert was billed to the property owner). This prodigious amount of labor went uncompensated due to increasing tenant neglect and high taxes.

The long term bias of the City of Hackensack against fair assessment practices is neglected in James Mason's appraisal comparing the two story residential apartments at 391-397 Park Street, Hackensack, to Quail Heights II [a high rise on Prospect Street.]Requiring management to perform servile labor can reduce ownership to mere employment, where failure to pay minimum wages skirts the federal minimum wage laws, and reduced the property's ability to attract investment capital. While commercial developers (such as Gentile funeral parlor) continue to receive bank loans in the subject neighborhood, residential properties have apparently been "red-lined."

It is clear that the issue of red-lining is a withholding of bank funds from residential properties due to refusal to extend credit to credit-worthy real property owners such as appellant within. Red-lining accompanied failure to pay for work performed by appellant. The Fair Labor Standards Act is incorporated into the New Jersey Administrative Code at Code Section 12:56-3.

Red-lining is a form of disinvestment; the tax sale at 390 Park street is one form of disinvestment whereby a bank disposes of property without negotiating with the current owner on repayment of the loan. The mortgage securing 391-395 Park street, Hackensack was transferred to a private party by a bank lien holder; that party instituted suit under the title of 391-395 Park Equities. Red-lining is applicable in the case at bar for many reasons. First, the neighborhood is over 25% black. Second, there are a number of Hispanic minorities living in the area, with Spanish churches to support that population.

Third, there are a number of churches in the area testifying to the religious orientation of the population. There is an evangelical Baptist church on the opposite corner of Park Court Apartment, with an adjacent school. Adjacent thereto are two protestant churches on Passaic street as one proceeds east on Passaic street. There is a Catholic church and school one block to the north. There are two black churches one block to the west of Park Court Apartments. There is a newly renovated Spanish church on Park Street. A church going population should not be red-lined due to religious reasons by banks which are merely profit oriented, such as Chase Manhattan Bank. The area houses a disproportionate number of poor people in the city; the United States Census shows that Hackensack census tract number 235 had the highest percent of poor people in Hackensack. There are 7,120 people living in Census Tract 235; 2278 live in rental units. 839 people in the tract are of Hispanic origin, according to the 1990 census; 1192 people in the tract are black. When it appeared to the opposing attorneys that such withholding of loans from appellant had resulted in massive evictions at 391-395 Park Street, Hackensack on April 1, 1997, they recoiled in horror from the prospect of becoming embroiled in this issue. Consider their remarks as follows at page 299a:

> Plaintiff seriously questions the credibility of defendant's statement It appears that the defendant is playing fast and loose with the judicial system, choosing a position that suits his immediate needs. This behavior should not be tolerated and such changes in factual or legal position should be barred under the doctrine of Judicial Estoppel. Therefore, personal jurisdiction should be sustained by this Court.

Consider this verbal attack upon appellant within at page 301a:

> Defendant claims that plaintiff did not advise the court of related cases because the cases dealt with problems which were the result of external forces

totally beyond the control of the Plaintiff. This is a gross mis-characterization of paragraph sixteen of the plaintiff's Certification dated August 16, 1998.

The lawyer concludes his attack as expected, charging that the appellant is not worthy of belief, at page 304a:

The defendant (Moretti) has yet again failed to present any credible reason why the foreclosure action should not proceed to sheriff's sale unabated. The voluminous submissions of this defendant in both this case and his other suits demonstrate a frivolous behavior pattern and portray a clear abuse of the judicial system.

Although this Chase Mortgage Services lawyer claims that appellant is changing his legal position to suit his needs, consider the accuracy of the following description made in the July 7, 1995 appeal of the New Jersey Tax Court case, Tax Court Docket No. 8336-93, Appellate Division Docket No. A-4913-94T2. This description is taken from the factual history of appellant's brief submitted to the court describing events in 1994, three years prior to the condemnation of Park Court Apartments on April 1, 1997:

Even water could not be depended upon. The Hackensack Water Company (now known as United Water) claimed it was owed $13,803.62 as of July 12, 1994. As a result of not paying this exorbitant bill, appellant was arrested and incarcerated, and after trial arrested again and incarcerated, the municipal court claiming "you're not a poor person." Even after being paid $9,500, the Hackensack water company claimed it was owed $7,566.76 as of December, 1994, suggesting a $17,000 water bill or higher was run up either by a defective water meter or negligent tenants. Most recently, after paying the water company a total of $18,500, appellant received yet another shut off notice due to $7,000 outstanding water charges. Despite the fact that the water company denied doing water searches for the City of

Hackensack, the New Jersey Lawyers annuals for 1991, 1992, 1993, 1994, and 1995 list the Hackensack Water Company as doing such searches. The performance of such searches by the provider of water suggests that the city relies upon this utility to determine amount and cost of water for each building, rather than insisting upon internal auditing such as by the municipal engineer. Clogged main sewer lines continue to dump 3500 gallons of water on the basement floor which must be pumped out to use laundry equipment.

Although the lawyers for Chase Mortgage Services claim that the other law suits filed by appellant have no bearing upon Chase Manhattan Bank, consider the serious issues of red-lining (page 142a-144a), block-busting (page 134a), churning, and excessive numbers of tax sales (page 152a-157a). Federal law requires banks to make loans in the areas in which they do business. Chase Manhattan has taken over the National Community Bank on Main Street, in Hackensack, but it refuses to make loans to appellant Moretti under the terms and conditions set forth in detail in these factual allegations. Under those circumstances, the bank is guilty of violation of the federal statutes dealt with by the community reinvestment act.

Proof of guilt in court requires access to office equipment; on April 15, 1997, the case of Salvatore Moretti vs. Gem Business Machines, SC-1845097 came on for trial before the Superior Court in Bergen County. The case was assigned to trial Judge Ellen Koblitz, the very same judge who tried the Hackensack Water Company case, the Aquanetta Fields case, the Bernard Fayehun case. The complaint filed by Moretti accused Gem Business Machines of performing repairs for over $400 on a Konica 1790 copier in a negligent fashion. The technician removed the by-pass tray from the copier and substituted a defective by-pass. The technician broke a glass element resulting in the malfunction of the machine. The technician replaced the drum unit with an after market drum

which wore out in ten days, resulting in a burn out and arcing of the drum, casting a black shadow across the copier paper exiting from the machine. The after market drum was guaranteed for 90 days, but lasted only one week. The burned out spot was visible on the drum as a bright, white circle around the otherwise tinted drum. The case was open and shut. The judge dismissed the case refusing to accept the straight-forward testimony of the plaintiff. This continuing lack of judicial relief from the same judge who ruled on the Hackensack water case in 1992 raises doubt as to the facts in the Chase Mortgage foreclosure.

Despite the dubious position put forth by Chase Mortgage Services that Salvatore Moretti is not protected by the anti-eviction act, consider that even the supporters of Chase=s position question its validity. Take for example the dissent by Garibaldi, Clifford and Pollock in Chase Manhattan Bank v. Iosephson, 135 N.J. 209, at 250, which states as follows:

> Defendants, on the other hand, allude to the impact of the present foreclosure climate on tenants. They assert that without the protection of the Anti-Eviction Act, tenants will experience a devastating impact from the present wave of foreclosures. They focus on the more immediate concerns of individual tenants facing eviction as a result of foreclosure. I admit that one can muster good arguments on both sides of the issue. I do not profess to know which is better

Although Chase's lawyers claim that Moretti is not a member of the protected class who cannot be evicted, consider that Moretti has been in this neighborhood for over forty years, that his ownership of property was in question due to serious environmental problems which were not addressed by the city of Hackensack, and that he was reduced to being a tenant who earned his keep by labor to maintain the property despite withholding of pay. Under these circumstances, the arguments of the plaintiff Chase should be dismissed as contrary to the facts.

Consider the legislative findings and declaration behind the

New Jersey Senior Citizens and Disabled Protected Tenancy Act. They are set forth at N.J.S. 2A 18-61.23 as follows:

> The legislature finds that research studies have demonstrated that the forced eviction and relocation of elderly persons from their established homes and communities harm the mental and physical health of these senior citizens, and that these disruptions in the lives of older persons affect adversely the social, economic and cultural characteristics of communities of the State, and increase the costs borne by all State citizens in providing for their public health, safety and welfare. These conditions are particularly serious in light of the rising costs of home ownership, and are of increasing concern where rental housing is converted into condominiums or cooperative which senior citizens on fixed limited incomes cannot afford, an occurrence which is becoming more and more frequent in this State under prevailing economic circumstances. The Legislature, therefore, declares that it is in the public interest of the State to avoid the forced eviction and relocation of senior citizen tenants wherever possible, specifically in those instances where rental housing market conditions and particular financial circumstances combine to diminish the ability of senior citizens to obtain satisfactory comparable housing within their established communities, and where the eviction action is the result not of any failure of the senior citizen tenant to abide by the terms of a lease or rental agreement, but of the owner's decision advantageously to dispose of residential property through the device of conversion to a condominium or cooperative.
>
> The Legislature further finds that it is in the public interest of the State to avoid the forced eviction and displacement of the handicapped wherever possible because of their limited mobility and the limited

number of housing units which are suitable for their needs. --

It is appropriate to note with respect to policy issues that the Chase Mortgage Corporation has reached the position of being able to evict appellant Moretti because Moretti was robbed of his rental deposit of over $7,000 in Citibank, the largest bank in the metropolitan area; subsequently Chase Manhattan Bank became the largest bank in the New York Metropolitan. Consider also that Chase Mortgage has scrupulously avoided answering the federal complaint attached at page 86a-172a; that complaint details the conversion of rental units on Park Street which conversion was administered by the Bergen county sheriff's department (134a); these foreclosure and bankruptcy sales evicted renting tenants; this is proscribed by state laws, because it reduces the rental housing market so that affordable units are reduced to zero.

Appellant maintains in BER-L-5678-97 that 391-395 Park street, Hackensack was condemned by the city of Hackensack/state of New Jersey contrary to New Jersey constitution Article 1, paragraph 20; the United States constitution prohibits the taking of private property at the fifth amendment, made applicable to the states by the fourteenth amendment. 390 Park street has been taken as well by the Chase Mortgage Services Corporation, which has refused to recast the mortgage loan, choosing to transfer title, without just compensation to the appellant within. This transfer of title was without judicial intervention, as shown above, and contrary to the above noted state statutes and state and federal constitutional provisions.

It is clear from the above that the factual dispute between the parties is as fundamental as the procedural one, and that both were caused by the refusal of the plaintiff Chase Mortgage Services to deal in good faith with the facts of the case both prior to the institution of the lawsuit, and subsequent thereto.

LEGAL ARGUMENT

Due to severe time constraints, the appellant is required to incorporate by reference his legal argument presented in the Supreme Court of the United States, Case No. 98-6497, and his legal argument presented to the Supreme Court of New Jersey, case no. 46,717, as shown at pages 238a through 270a in the appendix attached to this brief.

CONCLUSION

Appellant Moretti hereby requests that the Appellate Division of the Superior Court of New Jersey overturn the foreclosure sale of property situated at 390 Park Street, Hackensack, New Jersey, and for such other relief as it may find suitable.

Date: March 8, 1999.

Respectfully submitted:(s) Salvatore Moretti, Appellant Pro Se

LEGAL ARGUMENT

POINT ONE

THE CHASE MANHATTAN BANK DISCRIMINATED AGAINST MORETTI IN THE CASE AT BAR, VIOLATING THE FAIR LENDING LAWS: THE FAIR HOUSING ACT OF 1968, THE EQUAL CREDIT OPPORTUNITY ACT, THE HOME MORTGAGE DISCLOSURE ACT, AND THE COMMUNITY REINVESTMENT ACT.

As set forth in the procedural history and the factual allegations, when Moretti sought loans at numerous banks, such as Citibank, Chase Manhattan, Chemical, etc. he was denied loans. In fact, after seeking a loan from Citibank Branch No. 11 in lower Manhattan, Moretti was robbed of his entire rental receipts from his apartment properties at 391-395 Park Street, Hackensack, New Jersey.[1]

Chase Manhattan Bank merged with Chemical Bank; Moretti held checking accounts at Chemical Bank New Jersey, Chemical Bank New York, and Citibank, Canal Street at Broadway Branch, in New York City.[2] Both Chemical Bank,

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[1] Note Moretti v. Citibank, Supreme Court of New York, Index No. 2727-96

[2] In the same period, Bank of New York took over National Community Bank, New Jersey. National

New Jersey, and Chemical Bank, New York, denied Moretti loans after he was robbed at Citibank Branch No. 11 in August, 1994 in lower Manhattan. Moretti was graduated from New York Law School several blocks from the Citibank Branch No. 11.

Moretti took courses for licensure as a Certified Public Accountant in order to provide more complete record keeping for creditworthiness when applying for bank loans. Moretti kept meticulous records for over a quarter of a century relating to his Park Street real estate, from the time of his real estate tax appeals in the 1970's until the shut down of his properties in April, 1997. None of these records were reviewed by either the New Jersey Tax Court or Chase Manhattan Bank, which denied loans on the alleged basis of excessive obligations. Moretti disputed that he had excessive obligations based upon his $13,000 per month rental receipts and the fact that he owned and managed the subject real estate for forty one years. During that period of time, Moretti distributed an apartment owners newsletter, and ran for public office in Hackensack, N. J.

Despite voluminous record keeping, denial of loans to Moretti was as a result of renting to minorities in the central business district of Hackensack, New Jersey. The case at bar, as well as two other cases currently pending in the appellate division of the Superior Court (Salvatore Moretti vs. United Water Resources, Inc., City of Hackensack, and State of New Jersey, BER-L-5678-97, A-001901-98T2, and 391-395 Park Equities vs. Salvatore Moretti, et al., BER-F-7502-98, A-001819-98T2), show that due to the excessive demands by Chase Manhattan Bank for immediate repayment of its mortgage loan, and due to the failure to reconsider municipal real estate taxes, the hard pressed minorities (Black and Hispanic) resident in Moretti's buildings had no recourse but to trash

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Community Bank held a mortgage on Moretti's property, and National Community became a division of Bank of New York.

their apartments. The "excessive obligations" were the direct result of the banking policies which reflected the municipal policies so clearly set forth in the three appeals under consideration by the appellate division.

National Community Bank (Moretti secured a loan from its Main Street, Hackensack branch) and Chemical Bank were taken over by New York banks; mergers were much in the news in the late 1980's, and the 1990's. As a result of Chase Manhattan Bank's merger with Chemical Bank, it became the largest bank in the region, replacing Citibank.[3] Moretti's

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[3] It is noteworthy that the merger involving Chase Manhattan drew attention in New York City; consider the following law review, Senator Nellie R. Santiago, Thomas T. Holyoke, and Ross D. Levi, Turning David and Goliath into the Odd Couple: How the New Community Reinvestment Act Promotes Community Development Financial Institutions, Journal of Law & Public Policy, v. 6, no. 2, (1998) p. 571. The authors state that, [I]n 1995, a small Bronx-based community activist group filed suit against the Board of Governors of the Federal Reserve System and the New York State Banking Department in an attempt to halt the merger of two financial institutions into an entity which, to [572] quote Julius Caesar, would "bestride the world like a colossus" as the nation's largest bank. The basis for this ultimately unsuccessful challenge was that neither of the banks involved had lived up to their legal requirements to lend and invest in the poor neighborhoods they served. While this particular merger challenge drew a great deal of attention, it was simply one more in a long series of protests by local organizations claiming that some banks are failing to live up to their social obligations to invest in the communities where they conduct business. The primary weapon used in these [573] legal battles between community-based organizations and banks are the federal fair-lending laws [The fair-lending laws are generally considered to be comprised of the Fair Housing Act of 1968, 42 U.S.C. ' 3601-3609 (1997); the Equal Credit Opportunity Act, 15 U.S.C. ' 1691 (1997), and the Home Mortgage Disclosure Act, 12 U.S.C. ' 2801-2811 (1997)]. The

federal complaints filed with the United States District Court in Newark, New Jersey preceded Chase Manhattan's demand for repayment of its entire mortgage loan. The federal court complaints alleged violation of the federal civil rights statutes, 42 U.S.C. 1981, 1983. Since Moretti has proceeded conservatively, owning the same property from 1958 to 1997, his mortgage obligations were never excessive; making his monthly mortgage payments was not a problem until Chase Manhattan attempted to secure repayment of the entire loan. As a result of the bank mergers above noted, banking policies changed at the banks Moretti dealt with. It was a change of loan policy, not the income-expense statements submitted by Moretti, which resulted in the denial of loans. It was the loan policy adopted by Chase Manhattan Bank which prevented renewal of the mortgage loans or advancing money to cover unexpected costs; this precipitated the foreclosure sale subject of this cause of action. The effect of a neighborhood bank being taken over by a distant conglomerate with numerous banking branches is that the local branch no longer had the authority to evaluate the loan information provided to them. Those banking personnel with established relationships with Moretti were no longer employed by the Chase Manhattan Bank. Bank of New York, by contrast, chose to transfer its mortgage obligation to 391-395 Park Equities, L.L.C., represented by Howard Lipstein, Esq. Chase Manhattan Bank chose the more drastic route of bank foreclosure. Lipstein, with law offices in Millburn, N. J., in a building one fourth the size of Moretti's Park street properties, has also sought foreclosure in papers filed with the court. It is due to this lack of "localism" that the money invested in savings and checking

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centerpiece of this legal arsenal, and the law which most often lies at the heart of these conflicts, is the Community Reinvestment Act, often referred to simply as CRA [12 U.S.C." 2901-2907 (1997)].

accounts is not reinvested in the community from which it originated. While the banking journals abound in commentary stating that banking is not local because financial matters are national in scope, national issues are at stake in residency in the New York metropolitan area as well, which has been inundated by many migrations since the 19th century. The anti-localist bias is evident in Chase Manhattan Bank, which chose to seek alternate investments for its moneys, unsatisfied with the equity provided by a single family house at 390 Park Street, Hackensack, New Jersey owned by Moretti.

Moretti had difficulty securing inexpensive insurance. The Ratner Oldsmobile Dealership shut down across from Moretti's properties on Passaic Street and the shut down of the Multi-Pak compactor factory adjacent to 391-395 Park Street, was accompanied by the expansion of the funeral parlors adjacent to 390 Park Street - the Gutterman-Musicant and Gentile funeral parlors. Chase Manhattan knew that the adjacent funeral properties received loans, and that the properties in the neighborhood had high commercial value, but it chose to redline the area due to the minorities living in Hackensack's Central Business District. This is a clear case of violation of the fair lending laws. Moretti is being penalized due to the difficulties in securing credit by the Black and Hispanic population in the neighborhood. Chase's acts are illegal under the laws and regulations adopted by the United States Congress. Redlining and disinvestment have been addressed by the federal government due to the excesses which have been evident in the banking industry. These banking excesses have resulted in over three thousand foreclosure sales in Bergen County since 1988. The latest legislation adopted is the Community Reinvestment Act. [4]

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[4] Germane is the law review by A. Brooke Overby, The Community Reinvestment Act Reconsidered, 143 U. Penn. L. Rev. 1431, 1446, (May, 1995), which states that "the CRA is the youngest of a trinity of federal banking statutes enacted

Although discrimination in the residential real estate finance market has been prohibited under the Fair Housing Act [42 U.S.C ' 3605] since [1437] 1968, it was not until the enactment of the Equal Credit Opportunity Act (ECOA) [15 U.S.C § 1691-1691e] in 1974 that Congress addressed the issue of discrimination in lending. A response to substantial evidence that financial institutions were discriminating against applicants for credit on the basis of gender or marital status, the ECOA originally prohibited creditors from considering gender-related factors in assessing whether to grant credit. Amendments to the ECOA prohibiting discrimination on the basis of race, color, religion, national origin, age, receipt of public assistance benefits, or the exercise of rights under the Consumer Credit Protection Act following two years later.

Moretti ran for city council in 1981. He purchased the single family house at 390 Park Street, Hackensack, N. J. almost twenty years ago in order to more adequately manage his apartment house properties and study law. He knew the population living in Hackensack, and recognized their difficulties in maintaining checking accounts. He signed leases with hundreds of tenants in the forty one years since the properties were originally purchased; as a result he had the

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during a period of the 1970's that could be deemed the pinnacle of federal consumer-related financial legislation. Legislative intervention was directed in general toward concerns that the financial services industry was engaging in practices of individual discrimination and geographic redlining, as well as perpetuating a situation of "community disinvestment,' all of which systematically undermined the ability of persons to obtain credit on equal terms. The potential polarizing effects of these practices spawned the CRA as well as the Equal Credit Opportunity Act [15 U.S.C. § 1691] and the Home Mortgage Disclosure Act [12 U.S.C. §§ 2802, 2803], each directed toward creating a more level playing field in the market for credit.

opportunity to conduct credit checks on his tenants and prospective tenants. Blacks and Hispanics were forced to live in houses constructed in the 1920's huddled in the central business area of Hackensack, while affluent suburbanites lived in housing constructed during the building boom of the 1950's and 1960's.[5] Reliance on credit

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[5] Consider the law review by Peter P. Swire's, Equality of Opportunity and Investment in Creditworthiness, 143 Univ. of Penn. L. Rev. 1533, (May, 1995) which focuses upon the decline in creditworthiness of minorities faced with rejection by banks. Swire states at 1537, "the underinvestment in creditworthiness model draws on the underinvestment in human capital model developed by Shelly Lundberg and Richard Startz in employment markets. [Shelly J. Lundberg & Richard Startz, Private Discrimination and Social Intervention in Competitive Labor Markets, 73 Am. Econ. Rev. 340 (1983)]. Lunberg and Startz's model assumes that workers have both innate and acquired characteristics that determine their productive abilities. Each worker acquires human capital to the point where the marginal cost of more training equals the marginal benefit in the form of higher wages. 'Human capital' here includes not only formal schooling, but also, in the words of Kenneth Arrow, the 'more subtle types of personal deprivation and deferment of gratification which lead to the habits of action and though that favor good performance' in a job.

Lundberg and Startz explore the effects on employees of 'statistical discrimination,' which involves use of a general category, such as race or neighborhood, to reduce the costs of particularized inquiry into an individual' qualification for a job or a loan. They assume that employers are provided with test scores that provide information about each worker's marginal product, and that employers can identify each employee as either white or black'

[1538]Under the Lundberg and Startz model, white workers will receive larger raises for increases test scores, as well as higher average raises. Because they are more highly rewarded for improved test scores, white workers will rationally invest more in human capital - they receive a

greater marginal return from each unit of education than do black workers. Generalizing from the Lundberg and Startz model, Professor Cass Sunstein explains how underinvestment in human capital can result whenever significant discrimination exists in a labor market due to racial animus or various forms of profit-maximizing discrimination. Sunstein writes: "Decisions about education, training, drug use, tradeoffs between work and leisure, and employment programs will be affected by existing patterns of discrimination." For example, if a profession such as medicine is closed to blacks or women, their expected return from training for that profession will be lower.

A similar pattern can exist in credit markets - it may be that blacks and other minorities rationally invest less in creditworthiness than do whites.

[1544] Perhaps the most interesting information about investment in creditworthiness comes from Federal Reserve data on households and checking accounts. A nationwide 1989 survey by the Federal Reserve found that only 44.6% of black households, in contrast to 79.9% of all other households, had checking accounts. The regression analysis presented here established that race is a statistically significant factor in explaining who has checking accounts, even after controlling for such factors as income, net worth, education, age, and residence in a metropolitan area. This finding is robust across a range of models.

An important task is to assess the implications of the finding that race is a significant predictor of which households have checking accounts. My first claim is that the disparate rate of checking accounts is evidence of disparate investment in credit-worthiness. My second claim is that the lower investment in creditworthiness should be understood as a rational response to historical or current lender discrimination'

[1545] The lack of a checking account will typically mean a less clearly documented financial history, making it more difficult for the borrower to answer a lender's demands for information. The absence of clear records that a checking account generates makes it more difficult for a borrower to keep track of what bills have been paid, increasing the likelihood of missed payments. Furthermore, getting a home loan without having a bank account may be

cards frequently substituted for banking loans. The check cashing company located on Anderson street one block to the north substituted for a closed bank on Anderson street. Not only has Bergen county grown to become the largest county in the state, but it is the entry way for millions of New Yorkers permitted by the George Washington Bridge. That bridge connects a portion of the Bronx which is impacted by a lack of banking, and also by urban blight.[6] Not only have the Black and Hispanic minority populations of Hackensack been deprived of subsidies, as stated in the factual allegations above, but Moretti's twenty unit apartment house at 391-395 Park Street, Hackensack has been boarded up since its April

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prohibitively difficult. Lenders often require a substantial cash reserve in a bank account [1546] at the time of closing. Lenders are skeptical of down payments made with 'mattress money' - money whose source before the closing is not clearly documented. By contrast, a well-maintained checking account will help show that a borrower's sources of income are steady and legitimate, and the monthly account statements will often help answer specific questions posed by lenders. Having an established bank account can thus be important in a variety of ways to satisfying lenders - requirements, which comprise the behavioral component of investment in creditworthiness.

[6] Note of this fact is made by Craig E. Marcus in Beyond the Boundaries of the Community Reinvestment Act and the Fair Lending Laws: Developing a Market-Based Framework for Generating Low- and Moderate-Income Lending, 96 Columbia L. Rev. 710. (April, 1996). Marcus states at page 711 [Community groups] have not been able to stimulate the type of improvement in the banking industry in low- and moderate-income communities that the CRA was designed to produce. For example, in an area of the Bronx [712] which is approximately two square miles in size, with a population of between 150,000 and 175,000 people, only a few miles from Manhattan which is home to ninety-three major banks, there is but one bank branch and there are no ATM machines.

1, 1997 shut down, and Moretti himself was evicted as a result of the foreclosure sale at 390 Park Street on February 11, 1999.

When Chase Mortgage Services filed its complaint in foreclosure in the Bergen county chancery court, it claimed that there were no related cases in dispute. It denied the existence of numerous cases which were related to its contentions as set forth in the complaint. Moretti has clearly shown that the failure to effect personal service of the complaint flouted the rules of court; the certifications appended to the complaint and the briefs submitted by the attorneys for Chase claiming there were no related controversies resulted in Chase Mortgage Services, Inc, on behalf of Chase Manhattan Bank, by-passing the trial court. As a result, Moretti was evicted from 390 Park Street, Hackensack illegally. This is demoralizing and it is contrary to the expectancy interests for real property owners in the affected neighborhood. Property owners who pay their bills on time for over thirty-five years expect that they will eventually own their properties free and clear.

Consider the law review by Keith N. Hylton, Lending Discrimination: Economic Theory, Econometric Evidence, and the Community Reinvestment Act, 85 Georgetown L. Journal, 237, Dec. 1996, at page 242, which states that,

> "In its research prior to the passage of the CRA, the Senate Banking Committee found many examples of the type of disinvestment the CRA was designed to correct. Id. In New York City, only 11% of the money deposited in Brooklyn remained in the borough. In the District of Columbia, only 10% was reinvested in the community. Similar figures were found for Los Angeles, St. Louis, Indianapolis, and Cleveland." Id.

This law review notes at footnote 63 the following:

> Fn. 63. P. 249. "One should note the analogy here between the incentives of a victim of discrimination

and those of a property owner whose rights are not protected. Failing to protect property rights generates undesirable incentives for owners, which one may put into the category of "demoralization costs." See Frank L. Michelman, Property, Utility, and Fairness: Comments on the Ethical Foundation of Just Compensation Law, 80 Harv. L. Rev. 1165 (1967) (discussing the analytical underpinnings of "just compensation" for government "taking". The argument here can be viewed as follows: the "reasonable person" perspective encouraged by the common law creates a property right of sorts. Each individual makes certain investments on the basis of these expectations. A job seeker, for example, invests in skills with the assumption that he will be compensated for the skills at the prevailing market rate. A shopper invests in market-search activity with the assumption that he will receive the lowest available price. In a market in which discrimination is prevalent, certain job seekers and shoppers will find their investments receiving less than the expected market returns, weakening their incentives to invest. The weakened investment incentives, on the many different margins on which such decisions are made, may all be put into the category of "demoralization costs.".

Moretti's inverse condemnation suit filed in the Superior Court, Law Division, Bergen County, BER-L-5678-97 claimed that a regulatory shut-down had forced closure of his twenty unit apartment house at 391-395 Park Street, Hackensack, N. J. on April 1, 1997, and that the state and city, as well as the water utility, should compensate Moretti for the "taking." The subsequent sheriff's sale conducted by Chase Mortgage Services resulted in Moretti's February 11, 1999 eviction from 390 Park Street, Hackensack. Despite forty-one years of ownership of 391-395 Park Street, Hackensack, and ownership of 390 Park Street, Hackensack since 1980, Chase claims there

was inadequate creditworthiness to loan Moretti money to pay his unexpected water utility bill of $6,600.00 which led to the shut-down on April 1, 1997. Chase claims that Moretti's investment in real estate assessed over one million dollars is not sufficiently creditworthy. Chase Manhattan Bank's failure to loan Moretti money over the last nine years forced Moretti to use his credit cards to purchase needed office supplies. Because of Moretti's conservative financial status, he recognized that credit cards could be used only for short-term financing. As a result, he did not use his credit cards subsequent to 1992. Ever since 1992, Moretti has been paying high interest-rate credit card charges, with the expectation that his financial position would improve. Moretti attempted to secure bank loans by creditworthy acts. For example, in the months of November 1998 through May, 1999, Moretti has paid credit card bills of $1,944.00, despite not one credit card purchase for seven years.

Chase Mortgage Service's position is not believable. Any creditor could force a sheriff's sale by merely manipulating circumstances to suit its convenience. Equity courts were created to give equity. The chancery division is an equity court; by court rule, foreclosure cases are filed in chancery court in the county of venue. By refusing to follow court rules requiring service of process, Chase Mortgage Services bypassed the chancery (equity) court, and forced the sale of Moretti's single family house at 390 Park Street, Hackensack. The result was that not one cent was paid to Moretti as a result of the sale, despite his two decades of paying off of the mortgage loan. Chase Manhattan's claim that Moretti is not creditworthy is incredible. Where creditors have availed themselves of three thousand sheriff's sales in Bergen County since 1988, the potential for abuse of court process and the lending laws require that particular scrutiny be given to Chase's arguments. The courts should not be hostage to the flouting of rules by this would be financial colossus which owes its wealth to the take over of the estates of working people.

CONCLUSION

For the reasons above set forth. Moretti requests that the Appellate Division overturn the judgments of the Chancery Division in the case at bar.

Date: May 1, 1999

Respectfully submitted: (s) Salvatore Moretti, Appellant

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1998

SALVATORE MORETTI, PETITIONER
vs.
CHASE MORTGAGE SERVICES, INC., RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO THE NEW JERSEY SUPREME COURTPETITION FOR WRIT OF CERTIORARI

On The Brief: Salvatore Moretti, Pro Se, 390 Park Street, Hackensack, New Jersey 07601. (201) 487-5179

NO_____

IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1998
SALVATORE MORETTI, PETITIONER vs.
CHASE MORTGAGE SERVICES, INC.,
RESPONDENT

[X] Petitioner has previously been granted leave to proceed in forma pauperis in the following court(s): The United States Court of Appeals for the Third Circuit (Docket No. 98-5043); The United States Court of Appeals for the Federal Circuit (Docket No. 97-5115), March 3, 1998).

In Re Case Title: Chase Mortgage Services, Inc. vs. Salvatore Moretti and Mrs. Salvatore Moretti, his wife; The Bank of New York, N. A.; Hackensack Water Company; Mayor John Zisa; State of New Jersey; Louis J. Dinice; Timothy J. Sullivan; Ellen L. Koblitz, J. S. C. & State of New Jersey; Henry J. Amoroso. N. J. Supreme Court Docket No. 46,717; Bergen County Chancery Division Docket No. F-16923-97. Foreclosure Action. Property situated at 390 Park Street, Hackensack, New Jersey.

Questions Presented

1. Has the respondent Chase Mortgage Services complied with New Jersey Court Rule 4:4-4 which requires that the summons and complaint be served personally upon petitioner Salvatore Moretti; has Chase Mortgage Services, plaintiff in the Chancery Division of Bergen County, New Jersey by-passed personal service [B-31] in order to defeat the intent and purpose of the law which requires that notice be given to avoid a windfall under the facts within?

2. Although it is admitted by Chase Mortgage Services that Moretti paid off the mortgage loan on time for ten years, (390 Park Street was purchased in 1985), now it is claimed that bad credit does not justify recasting the loan due to Moretti's "bad" credit history [C-102] - is this redlining, coupled with a state/municipal gentrification - bringing in token racial groups to replace evicted minorities, given that Moretti paid all prior mortgages off on time from 1958-1993 on property assessed $1,000,000, 387-390-391-395 Park Street, Hackensack?

3. Has Chase Mortgage Services, which recently bought the loan from prior mortagees, considered that petitioner maintained his residential property in excellent condition for the prior quarter century, while three single family houses adjacent to Moretti's property were demolished and two major home fires destroyed two homes, given due consideration that vandalism and arson causing urban blight in this central city location were countered by Moretti's purchase of residential property (Zone R-3B, Residential-Business) in the period?

4. Is the failure of the Bergen County Tax Board and the Tax Court of New Jersey to reduce property taxes (reductions being applied for at 387, 390, 391-395 Park Street, Hackensack, N.J.) the result of municipal prejudice against minorities - Hispanics and Blacks; has the Chase Mortgage Bank's withdrawal from community support violated federal law (the Community Reinvestment Act), thereby reversing the policy established by National Community Bank of lending to Hackensack property owners for residential improvements?

5. Does the history of waste caused by third parties amount to fraud (including the water utility's demand for $40,783.59

for 500 s.f. [C18,C94,C98-101] one toilet apartments), thereby depriving the Sheriff of the right to sell the property on September 23, 1998?

List of Parties

Chase Mortgage Services, Inc. mortgagee of 390 Park Street, Hackensack, N. J.

Salvatore Moretti and Mrs. Salvatore Moretti, his wife; the property owner and any wife

The Bank of New York, N. A., prior mortgagee of 390 Park Street, Hackensack, N.J.

Hackensack Water Company, water utility claiming right to estate due to billing dispute

Mayor John Zisa, mayor of Hackensack

State of New Jersey, condemnor of property, which has not instituted formal proceedings

Louis J. Dinice, municipal judge of Hackensack, N. J.

Timothy J. Sullivan, state criminal judge who tried petitioner tenant in Apt. 395-D

Ellen L. Koblitz, J. S. C., special civil part judge who represented tenant in 395-D and ruled on water dispute.

Henry J. Amoroso, prosecutor of Hackensack, New Jersey.

List of Primary Federal Constitutional Authorities and State Statutory Authorities

1. United States Constitution. Fifth Amendment and Fourteenth Amendment. Condemnation of property by the Government

2. 1971 New Jersey Condemnation Act, N. J. Stat. Ann. 20:3-1

Constitutional Provisions, Statutes, Rules of Court, Ordinances, Regulations

The Rules of Court of New Jersey [Pressler, 1997 edition] state at R. 4:4-4 Summons; Personal Service; In Personal Jurisdiction as follows:

(a) Primary method of Obtaining In Personam Jurisdiction.

The primary method of obtaining in personam jurisdiction over a defendant in this State is by causing the summons and complaint to be personally served within this State pursuant to R. 4:4-3 [R. 4:4-3(a)]

Generally. Summonses and writs shall be served, together with a copy of the complaint, by the sheriff or by a person specially appointed by the court for that purpose or by a person otherwise authorized by these rules....] as follows:

(1) Upon a competent individual of the age of 14 or over, by delivering a copy of the summons and complaint to the individual personally, or by leaving a copy thereof at the individual's dwelling place or usual place of abode with a competent member of the household of the age of 14 or over then residing therein, or by delivering a copy thereof to a person authorized by appointment or by law to receive service of process on the individual's behalf;...

(4). Upon individual proprietor's and real property owners, provided the action arises out of a business in which the individual is engaged within this State or out of any real property or interest in real property in this State owned by the individual, by delivering a copy of the summons and complaint to the individual if competent, or, whether or not the individual proprietor or property owner is competent, to a managing or general agent employed by the individual in such business or for the management of such real property, or if service cannot be made in that manner, then by delivering a copy of the summons and complaint to any employee or agent of the individual within this State acting in the discharge of his or her duties in connection with the business or the management of the real property (emphasis added);

Paragraph 8 [B-4] of Mr. Pattel's certification states that "[a]ccording to the Bergen County Sheriff's Affidavit of Service, a Summons, Complaint and Amendment of Complaint were served upon the defendant, Mr. Moretti, on November 18, 1997 through a competent household member over the age of fourteen (14) years. Said affidavit is annexed

hereto and made a part hereof, as Exhibit C". Why the complaint subject of this chancery court foreclosure action does not involve real property or the ownership of real property is not stated by Mr. Pattel. Why Mr. Pattel relies upon section 1 of the rule and not section 4 will become clear as discussion continues.

In the very next paragraph, without consideration of any opposition to the complaint, Mr. Pattel reveals that default was entered. The paragraph reads as follows: [B-4]

9. Default was entered against the defendant, Mr. Moretti, on February 13, 1998. A copy of the filed default is annexed hereto and made a part hereof, as Exhibit D."

Code of the City of Hackensack

Section 134-2, Definitions, Fair Nert Operating Income - "gross maximized annual (income) less reasonable and necessary operating expenses...shall not exceed sixty percent (60%) of the gross maximized annual income."

Opinions Below

United States Court of Appeals for the Third Circuit, Moretti v. United Water Resources, Inc. et al., 98-5043, February 20, 1998

United States District Court, Moretti v. United Water Resources, Inc., et al., 97-1742 (JWB), November 25, 1997

United States District Court (Newark, N. J.), Moretti v. City of Hackensack, et al., 92-4206 (HAA-Harold A. Ackerman), June 21, 1993.

United States District Court, Moretti v. Dinice & Sullivan, 93-0528, JCL-Lifland), August 10, 1995.

United States Bankruptcy Court, In re Salvatore Moretti, Case No. 97-2418, July 10, 1997

New Jersey Supreme Court, In the Matter of Robert A. Hollis, 95 N.J. 253, February 3, 1984; 134 N.J. 124, October 12, 1993. [Attorney for Salvatore Moretti suspended from law practice in New Jersey by the N. J. Supreme Court).

New Jersey Tax Court, Moretti v. City of Hackensack, 8336-93,

also 1994 Docket.

Superior Court of New Jersey, Bergen County, Law Division, Moretti v. Hackensack Water Company, predecessor to United Water Resources, Inc., [Docketed Judgement from Ellen Koblitz' decision in DC-705907-92], DJ-111274-95, April 2, 1997.

Special Civil Part of the N. J. Superior Court, Bergen County, Tenancy, etc. Judge Ellen Koblitz' decisions in the cases of Moretti v. Aquanetta Fields, DC-4327-93 [tenancy]; Moretti v. Hackensack Water Co. [water utility rates and water overcharges]; Ballard v. Moretti, SC-585-93.

Moretti v. Citibank, New York Supreme Court, Kings County, 2727-96.

Listing Supplied By Citibank Attorney:

Moretti v. City of Hackensack, certif. denied, 143 N.J. 324, 670 A.2d 1065 (1996); Moretti v. Dinice, cert. denied, ___ U.S. ___, 115 S.Ct. 2580, 132 L.Ed.2d 830(1995); Moretti v. New Jersey, cert denied, ___ U.S. ___, 115 S. Ct. 1698, 131 L.Ed.2d 561 (1995); Moretti v. Red Roof Inn, cert denied, ___ U.S. ___, 115 S. Ct. 568, 130 L.Ed. 486 (1994); Moretti v. Zisa, cert denied, ___ U.S. ___ 115 S.Ct. 71, 130 L.Ed.2d26 (1994); Moretti v. Multi-Pak Corp., cert denied, 464 U.S. 988, 104 S.Ct. 475, 78 L.Ed. 2d 675 (1983), rehearing denied, 465 U. S. 1054, 104 S. Ct. 1334, 79 L.Ed.2d 729 (1984)

Superior Court of New Jersey, Bergen County, Moretti v. Hackensack Water Co., BER-L-8191-92

Fayehun v. Moretti, Special Civil Part, Bergen County, Nov. 12, 1993

Office of Administrative Law, Moretti v. Hackensack Water Co. (predecessor to United Water Resources, Inc.) PUC 07022-95

Hackensack Municipal Council, Resolution 260, in re Hackensack Water Co. and Moretti, August 17, 1992.

Moretti v. Jaime Calle, Small Claims (Bergen), SC-5820-96

Moretti v. Maria Diaz, SC-5812-96

Moretti v. Enrique Garcia/Flores, SC-5816-96

Moretti v. Carlos Morocho, SC-5809-96

Moretti v. Segundo Toalongo, SC-5822-96

Moretti v. Uvieghara, SC-5979-96
Moretti v. Raymond Veloz, SC-5810-96
Moretti v. Alberto Yunganaula, SC-5806-96

Jurisdiction

Decision by the New Jersey Supreme Court, Chase Mortgage Services, Inc. vs. Salvatore Moretti and Mrs. Salvatore Moretti, his wife; The Bank of New York, N. A.; Hackensack Water Company; Mayor John Zisa; State of New Jersey; Louis J. Dinice; Timothy J. Sullivan; Ellen L. Koblitz, J. S. C. & State of New Jersey; Henry J. Amoroso. Docket No. 46,717 September 18, 1998,; Appellate Division of the Superior Court of New Jersey. Part T, Judges Long and Steinberg, August 20, 1998. Bergen County Chancery Division Docket No. F-16923-97, August 13, 1998. Judge Gerald Escala. Foreclosure Action. Property situated at 390 Park Street, Hackensack, New Jersey.

STATEMENT OF THE CASE

On September 23, 1998. the Sheriff of Bergen County sold at Sheriff's Sale 390 Park Street, Hackensack, N. J. This property had been owned by petitioner Salvatore Moretti since 1985 who had faithfully made mortgage payments to National Community Bank on Main Street in Hackensack, N. J., (the county seat of Bergen County). National Community Bank was taken over by Bank of New York, and Chase Manhattan Bank acquired the mortgage therefrom. Mortgage payments were prevented by the apartment house condemnation of 391-395 Park Street, Hackensack, New Jersey [owned by petitioner Moretti since 1958; by 1978 the construction mortgage was paid off; due to neighborhood nuisances petitioner attempted to improve services by acquiring the management office at 390 Park Street, Hackensack, and acquired better parking at 387 Park Street, Hackensack] on April 1, 1997, which resulted from a combination of alleged health code violations. Among these violations was the shut off of water permitted by the city of Hackensack when United Water Resources, Inc. refused to enter into an interim payment plan.

Despite numerous problems at 390 Park Street, Hackensack, N. J. including tenant problems with Freeman in which the doors where glued shut (petitioner was arrested and incarcerated at the Bergen County jail operated by the Sheriff's Office of Bergen County), the Bergen County sheriff's department served Chase Mortgage Services' summons and complaint on a non-party unrelated person. Chase Mortgage now claims that personal service was not required since petitioner Moretti was not in business because the building was a single family. The property is zoned Residential - 3B, the B standing for business. There are numerous businesses located in this zone, including two adjacent funeral parlors (adjacent to 390 Park Street), office buildings (adjacent to 387 Park Street), and apartment houses (adjacent to 390 Park Street) up to five stories.

Petitioner filed numerous papers in Chancery court which neglected to file/consider same, resulting in the uncontested treatment by the foreclosure unit in Trenton, N. J., and precipitating the Sheriff's sale on September 23, 1998. The Chancery court claimed petitioner required an attorney. Petitioner seeks overturn of the appellate decisions affirming the chancery court ruling which failed to grant the stay request so that the case within may be transferred from the foreclosure unit in Trenton to the contested unit in Bergen county. Thereafter, the case can be considered on its merits.

REASONS FOR GRANTING CERTIORARI

On September 23, 1998 the Sheriff of Bergen County held a Sheriff's sale and sold 390 Park Street, Hackensack, New Jersey to the highest bidder, T. Performance. The Supreme Court of New Jersey had denied the stay of the Sheriff's sale applied for by Moretti (Appendix Exhibit AA-1). Moretti purchased the single family house located in a R-3B use district in 1985. The R-3B zone is currently zoned for business and apartments up to five stories. From this location Moretti had managed his apartment house at 391-395 Park Street, Hackensack, New Jersey from 1985 to 1997. In April, 1997 the apartment house was closed due the action by the United Water Resources [C-

21] to terminate water service; United Water refused to enter into a plan for the payment of the water bill (C-99 - C-101), and Chase Mortgage refused to re-cast the mortgage (C-102). Bank of N. Y. similarly accelerated its loan demanding positive cash flow.

Moretti reiterates his argument before the New Jersey Supreme Court that he has not been properly served with the summons and complaint by Chase Mortgage Services, (Exhibit G-3 to G-6). The result is that Chase Mortgage prevented the listing of the case on the Chancery docket as a contested matter. Instead there resulted the foreclosure by the Trenton foreclosure unit of an "uncontested" case. Moretti appeared continuously [C-104] before the Chancery court in Bergen County, New Jersey (the property in question is located in Hackensack, the county seat of Bergen County) throughout 1997 and 1998, but to no avail, since the court claimed "a lawyer was required" to file papers.

Petitioner herein, Moretti, argues that the Chancery court of Bergen County should have transferred the case to the contested docket and heard his appeal. Petitioner relies upon Brinkley v. Western World Inc. 275 N.J. Super. 605, 646 A.2d 1136, decided January 12, 1994 by the Chancery Division of the Superior Court of New Jersey, Sussex County, New Jersey.

This case concerns tax liens which were purchased by plaintiff Western World, Inc. Western World Inc. sought to foreclose based upon the tax sale. The Chancery Court invoked its equitable powers to set aside the tax sale certificates on two lots (Block 365, Lots 5 & 17, located in Byram Township, N. J.) While the defendants claimed the property was entitled to farmland assessment, when the municipality claimed tax liens for the years 1983 and 1985, no appeals from the tax sale ensued until more than two years after the sale. Lots 5 and 17 were entitled to farmland assessment for 1983. Byram Township v. Western World, et al., 111 N. J. 222, 544 A.2d 37 (1988). In 1988 the Appellate Division ruled that Lot 5 was entitled to farmland assessment, but not Lot 17.

The Chancery Division reasoned as follows [p. 608]:

"A municipality is empowered to sell lands for unpaid taxes or any municipal lien pursuant to N.J.S.A. 54:5-19; See also Nordell v. Mantua Twp., 45 N.J. Super. 253, 256, 132 A.2d 39 (Ch.Div. 1967). N.J.S.A. 54:5-32 provides:

The certificate of sale shall be presumptive evidence in all courts in all proceedings by and against the purchaser...of the truth of the statements therein, of the title of the purchaser to the land therein described, and the regularity and validity of all proceedings had in reference to the sale. After two years from the record of certificate of sale, no evidence shall be admitted in any court to rebut the presumption, unless the holder thereof shall have procured it by fraud, or had previous knowledge that it was fraudulently made or procured....(emphasis added)

Furthermore, strict interpretation of the time limitation and presumption set forth in N.J.S.A. 54:5-52 is contrary to decisional authority [p. 609]. N.J.S.A. 54:5-100 provides as follows, "In an action in the Superior Court to foreclose [a tax sale certificate],...the validity of the tax or other municipal lien for which the sale was made and certificate issued...shall be conclusively presumed unless a defendant in the action shall set up as a defense thereto the invalidity of the tax or other municipal lien...All questions as to such invalidity may be tried in the action.(emphasis added)." Nordell, supra , held that the two statutes "are in pari materia and must be read together." 45 N.J. Super. at 257, 132 A.2d 39 (citations omitted).

"New Jersey case law has held that the statutory presumption of validity and the two year limitation does not apply to an assessment which is void ab initio. Nordell, supra, 45 N. J. Super. at 257, 132 A.2d 39 (quoting Hudson County Park Comm. v. Jacobson, 132 N.J.L. 287, 40 A. 2d 201 (Sup. Ct. 1944). Nordell cites to Hudson for the following proposition, "[i]ts [N.J.S.A. 54:5-52] only purpose is, we think, to aid in the enforcement and collection of unpaid taxes and assessments validly made. It cannot give validity to a void assessment." Nordell, supra, 45 N.J. Super at 257, 132 A. 2d 39 (quoting

Hudson, 132 N.J.L. 287, 40 A.2d 201).

The Chancery court stated at page 610 that "Nordell stands for the proposition that when there are no unpaid taxes against the property, the lien and/or tax certificate is deemed void ab initio. 45 N.J. Super. at 258, 132 A.2d 39. Since the lien is deemed void, evidence is admissible to rebut the presumption set forth in N.J.S.A. 54:5-52. Hudson, supra, 132 N.J.L.287, 40 A.2d 201.

"Strict enforcement of N.J.S.A. 54:5-52 is not only contrary to decisional authority, it is contrary to general equitable principles. "The rule seems to be that where under a statute providing for tax sales, a deed delivered will be presumptive evidence of title, equity may intervene to either prevent the sale, or if the deed be delivered, to cancel it." Cahill v. Town of Harrison, 87 N. J. Eq. 524, 526, 100 A. 625 (Ch. 1917).

"The court also relies upon the general equitable principles which apply to the remedy of foreclosure. Foreclosure is a harsh remedy and equity abhors a forfeiture. A court of equity may invoke its inherent equitable powers to avoid a forfeiture and deny the remedy of foreclosure. Sanguigni v. Sanguigni, 197 N. J. Super. 505, 507, 485 A. 2d 332 (Ch.Div.1984) (a determination as to whether an action "...warrants the remedy of foreclosure involves the operation of equitable principles [and]...is subject to the exercise of discretion by the court") See also Kaminski v. London Pub., 123 N.J.Super. 112, 117, 301 A.2d 769 (App.Div. 1973)."

At page 611, the Chancery Court states that, "although the court is invoking its equitable powers to set aside a tax sale certificate because the underlying lien has been extinguished, the court is mindful that the plaintiff-purchaser is not without recourse. If the tax certificate or lien is invalid or set aside, the certificate of sale may be assigned to the municipality and the municipality may then refund to the purchaser. Tontodonati v. City of Paterson, 229 N.J. Super. 475, 551 A.2d 1046 (App.Div.1989); 13A New Jersey Practice, Real Estate Law & Practice, Sections 35.6, at 488 (John A. Celentano) (1991)."

As footnote 5 on page 613 notes, "N.J.S.A. 54:5-54 provides

that the owner has "...2 years from the date of sale when the purchaser is other than the municipality, or an any time thereafter until the right to redeem has been cut off in the manner in this chapter set forth, by paying to the collector...the amount required for redemption..." (emphasis added). Decisional authority has held that the right to redeem from foreclosure of a tax sale certificate should be liberally construed. Manning v. Kasdin, 97 N.J. Super. 406, 235 A.2d 219 (App.Div.1967). Moreover, the right of redemption is not barred until a judgment in foreclosure is rendered. See Borough of Wildwood Crest v. Smith, 210 N.J. Super. 127, 509 A.2d 252 (App.Div.) certif. den. 107 N.J. 51, 526 A.2d 139 (1986). Thus, once the Township determines the amount due and owing on Lot 17 for the year of 1985, defendant has the opportunity to redeem prior to entry of a judgment in foreclosure."

In the case at bar, petitioner Moretti applied for real estate tax reductions from 1991 to 1995; the frequency of his appeals is a matter of record. It was a result of the deferring by federal district court in Newark, N. J. (92-4206 HAA) to the New Jersey Tax Court, and the deferral by the state tax court to the county tax board, and the refusal by the county tax board to hear the appeals or to grant the reductions applied for that the default in mortgage and real estate tax payments resulted. Since petitioner was a resident property manager, he operated a business and was engaged in the course of business [Chase disagrees, F-31] when the sale took place. He is entitled to service of process as required under the court rules of the state of New Jersey. In fact, the sheriff served a third party not related to the petitioner. Petitioner is now being evicted from his office so that the Sheriff's sale purchaser, T. Performance can reap a windfall.

Notice provisions in the New Jersey Tax Sale law is considered by the law review, Tax Certificates: A Review of the Tax Sale Law, by Michael G. Pellegrtino, Esq. and Ralph P. Allocca, Esq., Vol 26, Seton Hall Law Review, p. 1607 et seq. At page 1627, the authors note that "the notice required in an

in rem tax foreclosure proceeding has evolved over the last twenty years. Prior to 1977, the only notice requirements were the publication and posting on the property of the foreclosure complaint. In 1977, the New Jersey Supreme Court determined, in Township of Montville v. Block 69, Lot 10, that notice of the in rem proceeding was to be given to the owner of the property before his right of redemption could be foreclosed. Finally, the United States Supreme Court reviewed the issue of notice in in rem foreclosure proceedings in Mennonite Board of Missions v. Adams, 462 U.S. 791 (1983) and held that it is constitutionally mandated that all interested parties, including mortgagees, be notified of the in rem proceeding by personal service or mailed notice. If such notice is not effectuated, the mortgage will not be foreclosed and will survive the foreclosure judgment. ...[p. 1628] A municipality also has the right to bring an action in the Superior Court to bar the right of redemption if the land or any improvement thereon is hazardous to the public health, safety and welfare or is unfit for human habitation. [N.J.S.A. Section 54:5-77]. The owner, mortgagee, or other person with an interest in the land, has an absolute defense to the action if the condition which rendered the property hazardous or uninhabitable has been cured. Alternatively, an interested party can deposit with the court the amount of money determined by the court to be necessary to remove or correct the conditions [C-92] or a performance bond in double that amount. The abatement, removal or repair must be accomplished within the time prescribed by the court, and the monies deposited with the court can be used to pay for the repairs made...[p. 1629] Logic dictates that this same relief ["(appointment of a rent receiver) is a long-settled remedy available to a mortgagee upon the initiation of foreclosure on an income-producing property] should be available to tax certificate holders who have initiated foreclosure proceedings where the underlying property does not provide sufficient equity to secure the tax lien, or where waste has been committed."

It is inconsistent that neither the municipality (Hackensack)

nor the water utility (United Water Resources, Inc., (formerly known as the Hackensack Water Company) took the option of appointing a receiver who would monitor collection of rents so that both proper upkeep of the property could take place, and bills could be paid This receiver would have seen that the property was being professionally maintained by the petitioner, who owned the twenty unit apartment house (located at 391-395 Park Street, Hackensack, N. J.) for forty years, and has owned 390 Park Street, Hackensack, N. J. for thirteen years. Rather, co-defendants City of Hackensack and United Water Resources, Inc. proceeded to shut off all utilities on April 1, 1997 (at 391-395 Park Street, Hackensack, New Jersey) and thereby condemn the apartment house. Due to the loss of income from the rental apartment house, petitioner could no longer pay for his property management office at 390 Park Street, Hackensack, N. J. The theft of petitioner's apartment rents at the Citibank in New York City was an additional factor resulting in the filing a bankruptcy petition in Newark Federal district court, which petition was rejected by the court. Based on these facts, petitioner Moretti appeals to the United States Supreme Court to grant this petition for certiorari. Petitioner argues that Omaha Hotel Co. v. Kountze, 107 U.S. 378 (1883), supports his position that the chancery court was required to grant the stay applied for in the case sub judice.

In Omaha Hotel Co. v. Kountze, 107 U.S. 378 (1883), the court stated, "Courts of equity always have the power where the debtor is insolvent...to take charge of the property by means of a receiver, and preserve not only the corpus, but the rents and profits, for the satisfaction of the debt, [107 U.S. at 395]. As noted by the Pellegrino and Allocca law review on New Jersey Tax Law, unlike most commercial mortgage documents, tax certificates contain no contractual clause providing for the appointment of a [1630] rent receiver. This fact, however, should not bar the appointment of rent receiver where the circumstances require one. New Jersey courts have historically held that such a contractual clause is not the

determinative factor for the appointment of a rent receiver. [See Barclays Bank, 274 N.J. Super. at 522-23, York Motel Assoc. v. Blum, 78 N.J. Super. 108, 111-12, 187 A.2d. 624 (Ch.Div. 1962), certif. den., 44 N.J. 403, 209 A.2d 140 (1965); Tucker v. Nabo Constr. Corp., 108 N.J. Eq. 449, 450, 155 A.460 (Ch. 193). In Tucker, the court explained that:

[t]his [clause] is not binding on the court and does not entitle the mortgagee to the appointment of a receiver as a matter of right and without regard to the other circumstances of the case. Receiverships, like injunctions and specific performance, are the tools whereby chancery exercises its peculiar jurisdiction and are used only when the facts warrant their employment, according to the established practice of the court....

As the Pellegrino and Allocca law review comments, "rent receivers are only appointed where the security is at risk due to low equity in the property or waste. The appointment of a rent receiver is not to provide the secured party with a continuous stream of income, but is to protect the secured party from the further reduction of its security . The rents are primarily used to prevent waste by paying current taxes, securing the property from vandalism, or financing needed repairs and maintenance."

Despite the fact that Hackensack and United Water Resources, Inc. claim that there was waste, that bills were not being paid, that real estate taxes were not being paid, they failed to take the relief which would have insured the end they allegedly desired. They failed to protect tenants at 391-395 Park Street, Hackensack. from eviction. Eviction now threatens petitioner Moretti as well. Petitioner Moretti claims that the invasion of the R-3B use district by funeral uses (Gentile Funeral Parlor and Gutterman funeral parlor) both of whom received variances to expand into the R-3B use district argues that the city and water utility are acting in bad faith. Moretti paid over $23,500 in water bills [C-94], and promised to pay

over $5,100 more [C-98] to the water utility, but the utility's lawyer simply refused to accept payment, and the court refused to accept the payment (C-1 to C-86). Clearly, over billing by the water utility and excess taxation by Hackensack (which claims the single family at 390 Park Street, Hackensack is a two family house) requires reversing the decision by the New Jersey Supreme Court which denied a stay of the tax sale. to T. Performance.

The foregoing considered in conjunction with the dramatic increase in sheriff's sales of Bergen County properties [D-67-73] requires consideration of whether there is excess zeal by mortgagees who are ignorant of long term residential values. Julia Patterson Forrester considers changing the law relating to the rights of mortgagees and mortgagors in her law review, A Uniform and More Rational Approach to Rents as Security for the Mortgage Loan, 46 Rutgers L. Rev. 349, (1993).

At page 1631 the author notes that "legislative intent is clear that a private certificate holder does not have the right to immediate entry into the underlying property to manage or protect it.[See Barry L. Kahn Defined Pensions Plan v. Township of Moorsetown, 243 N.J.Super. 328, 336, 579 A.2d 366, 370 (Chn.Div.1990)] A municipality, however, which has purchased and recorded a tax certificate on an income-producing property is entitled to take immediate possession of the property for the sole purpose of collecting rents and apply such income toward the redemption of the certificate...It has long been held that this right to collect rents implies an obligation to do so as well as an obligation to undertake reasonable maintenance and repair. [Tauber v. Newark, 227 N.J.Super. 257, 261, 546 A.2d 585, 587 (Law Div. 1988) (citing Newark v. Sue Corp., 121 N.J. Super. 205, 296 A.2d 362 (Cty.Ct. 1972), aff'd, 124 N.J. Super. 5, 8, 304 A. 2d 567, 569 (App. Div. 1973); Taylor v. Morris, 1 N.J. Super. 410, 415, 61 A.2d 758, 760-61 (Ch. Div. 1948)).

At page 353, Forrester argues that "the confusion in the law governing assignments of rents affects not only the parties directly involved, but in significant ways has implications for

the national economy, citizens in general, and the efficacy of the federal bankruptcy system. Loans secured by commercial real estate make up a substantial percentage of the loan portfolios of our nation's banks, savings and loans, and insurance companies. Given the general decrease in real estate values across the country and the increase in the number of defaults, the treatment of rents in the period between default and foreclosure has become a more significant issue. Of utmost concern is the extent to [p. 354] which confusion over the treatment of rents during this period makes lenders more reluctant to loan money. A negative impact on lenders' willingness to do business has serious economic consequences nationwide. Furthermore, because the Federal Deposit Insurance Corporation (FDIC) and the Resolution Trust Corporation (RTC) now own a significant number of real estate loans, taxpayers may ultimately absorb the losses of uncollected deficiencies resulting from misapplication of rents by borrowers. In bankruptcy, the problem is compounded..."

At p. 356, "the author (Forrester) proposes that rents be integrated into Article 9 of the UCC [Uniform Commercial Code] and treated essentially the same as accounts are treated under Article 9. A borrower could then grant a secu- [p. 357] rity interest in rents to a lender in much the same manner that a borrower may now grant a security interest in accounts. This proposal would provide a workable solution to the problems arising under both state law and bankruptcy law with regard to security interests in rents and would provide for uniformity among the states. Furthermore, the proposal would be easy to implement because of existing statutory and case law relating to security interests in accounts."

Chase mortgage services should not have foreclosed on 390 Park Street, Hackensack, when it could have rented the property to petitioner Moretti (rather than accelerating the mortgage - as did Bank of New York - and refusing to recast the mortgage). As Forrester argues [p. 359], "a mortgage lender's ultimate remedy is foreclosure of the mortgaged property, but the time period required for the completion of a

foreclosure varies significantly from state to state. During the interim period between a borrower's de- [p. 360] fault and the completion of a foreclosure, a lender may have available certain provisional remedies such as securing the appointment of a receiver for the property, taking possession of the property and collecting rents, or collecting rents without taking possession of the property. Whether these provisional remedies are available and whether they require special mortgage provisions in order to be available, depend upon the law of the state where the mortgaged property is located and the effect given in that state to the mortgage instrument itself."

Forrester comments at p. 368 that, "when a lender becomes a mortgagee in possession, the lender faces potential liability that can exceed even the amount of the mortgage debt. First, and most significantly, the lender in possession can have liability for environmental problems on the property. Second, the lender can be held liable to the [p. 369] borrower for mismanagement; if the lender fails to 'manage the property in a reasonably prudent and careful manner so as to keep it in a good state of preservation and productivity, and third, the lender may have liability to third parties for injuries caused by dangerous conditions on the property. For these reasons lenders are generally hesitant to become mortgagees in possession." Petitioner Moretti claims that Hackensack shut down his property interests (on April 1, 1997 at 391-395 Park Street, Hackensack) due to a regulatory invasion [C-100] which amounted to an illegal taking. In fact, once it gained possession after April 1, 1997, it allowed the property to be vandalized, producing $30,000 of damage so that it's excess zeal would be camouflaged.

Petitioner Moretti was forced to file for bankruptcy protection. Forrester argues as follows in her law review: [P. 385]. "The United States Supreme Court addressed the issue of the treatment of an assignment of rent in bankruptcy in Butner v. United States. 440 U.S. 48 (1979). The court held in Butner that state law governs 'property rights in the assets of a bankrupt's estate,' including the rights of a lender under an

assignment of rents. The court rejected the view that had been adopted [p. 386] by the Third and Seventh Circuits that 'federal law affords mortgagees an automatic security interest in rents and profits when state law would deny such an automatic benefit and require the mortgagee to take some affirmative action before his rights are recognized.' Instead the Court decided that bankruptcy courts should 'take whatever steps are necessary to ensure that the mortgagee is afforded in federal bankruptcy court the same protection he would have under state law if no bankruptcy had ensued.' ...[p. 408] "Because the UCC [Uniform Commercial Code] was drafted with the modern commercial transaction in mind, the policies it promotes are likely to be rational in modern times, unlike the law relating to assignments of rents."...[p. 422] "[I]ncorporation of rents into Article 9 [of the U.C.C.] might promote the use of a new type of financing for owners of income-producing properties. Lenders might be willing to provide financing secured only by rents of real property without requiring a mortgage on the property itself if a rational means for obtaining a security interest in rents were available."...[p. 423] "The arguments advanced against the amendment of Article 9 to include real property rents do not provide sufficient justification for such a position. The suggestion that the amendment would be politically unwise is based on a concern that it 'might meet strong opposition from various interest groups and that such opposition might in many states delay the enactment of the entire package of Article 9 amendments.'"

Petitioner suggests that Chase Mortgage Services acting in complicity with the City of Hackensack have driven petitioner Moretti out of business. They have failed to heed the warranty of habitability laws passed in New Jersey requiring that both petitioner (who maintained a residential apartment at 391-B Park Street, Hackensack as well as office space at 390 Park Street, Hackensack) and his tenants move out or face arrest.

CONCLUSION

For the reasons set forth above, petitioner Moretti hereby

applies to the United States Supreme Court to grant his petition for certification, and reverse the order by the New Jersey Supreme Court dated September 18, 1998; thereafter the case sub judice may be considered on its merits as a contested matter by the chancery court in Bergen County..

Date: October 9, 1998

Signed: (s) Salvatore Moretti, Pro Se

The Record, Hackensack, N. J. April 13, 1978

City, police, neighbors back mental center

By Mary Ellen Schoomaker, Staff Writer

Hackensack - A gray-and-white two-story house on Park Street looked quiet yesterday - shades drawn, no tinge of Times Square. Even though it is alleged that a sordid assortment of incidents has taken place there.

The house at 387 Park St. is a residence for eight members of Friendship House, a psychiatric rehabilitation center.

A lawsuit filed Monday by Salvatore Moretti, owner of a nearby apartment complex, charges that the occupants are there illegally and disturb the community.

But police, the city, and neighbors say that nothing is going on - except a one-man battle to have the place closed.

Tenants in Moretti's buildings say they have no complaints. "In fact, in one of the blizzards, said one woman, 'five people from the house helped me dig my car out."

Moretti complained to the city months ago, saying the residence was a halfway house for mental patients, which is illegal under city law. Moretti alleged that open acts of lewdness, assaults, and other disturbances have taken place there.

But the city said the house was perfectly legal, and police said they had only two calls to the premises, both in 1976, and both were for minor incidents.

Yesterday, police said nothing significant has come to their attention since that time.

Dr. Donald Springer, executive director of Friendship House, said the Park Street facility is a rooming house only. No staff is on the premises and the occupants either have jobs or are training for them.

"Some of these people have never even been in mental hospitals. They may just be a little more depressed than most people," he said.

Springer says Friendship House is caught in a "personal vendetta" between Moretti and the owner of 387 Park St.. Friendship house leases the house from Gutterman-Musicant-Kreitzman, funeral directors at 402 Park St.

"The building is being used as a scapegoat,' Springer said.

Criticizes funeral home

In a letter to City Council members last June, Moretti wrote, "The actions of Gutterman-Musicant-Kreitzman cause doubt as to their concern about our neighborhood."

Moretti has also complained to the city of parking problems near the funeral home caused by mourners.

But Moretti yesterday denied any relationship between the two issues.

Henry Gutterman, funeral home president, says he does not understand the suit. "We have the most cordial relationship with Dr. Springer. We have never had a complaint about the building."

Five tenants in the Park Court complex said they have never heard of any disturbances next door.

One woman said she did not even know where the house was; another said she thought it was a commune.

Attorney Frank Alster, whose office is at 377 Park St., said yesterday he knew of no problems down the street.

"Moretti asked me to join the suit," Alster said, "But I have no reason to join."

The Record, Hackensack, N. J. April 18, 1978

A sad, familiar story

A little more than two years ago, eight persons moved into a house on Hackensack's Park Street, where they lived

in peace and harmony until last week. A neighbor, Salvatore Moretti, owner of an apartment house on the same street, has filed suit, charging that the present use of the house violates a city ordinance prohibiting the boarding of mentally deficient-persons.

We have no wish to prejudge a lawsuit. It is worth pointing out, however, that Mr. Moretti' complaint echoes language that has been used to rouse opposition to various halfway house elsewhere in Hackensack. In one case, seven mildly retarded adults were kept from occupying a house on Jackson Avenue because of neighborhood complaints that their presence would somehow be disturbing, and that they would lower property values. Another group of residents, offering similar reasons, opposed the establishment of a battered wives shelter on Union Street.

Mr. Moretti has two arguments. First, he charges that they have committed acts of open lewdness, assault, and other disturbances. No such complaints have been made to the Hackensack police.

Second, he labels them "mentally deficient." As it happens, they'e not. They'e not even mental patients. The building, thought it is sponsored by a psychiatric rehabilitation center called Friendship House, is not a halfway house for former patients, some of the residents have been in mental hospitals, and some haven't. They are people who need a mutually supportive atmosphere, free from the emotional turmoil in which they've spent their lives.

Even if they were "mentally deficient," however, it is hard to see why Hackensack has on its books an ordinance banning boarding house for such people. How does one define "mentally deficient," for one thing? And, for another, isn't such an ordinance likely to be a perfect tool for residents who don't want such halfway house in their neighborhoods? If the purpose of the ordinance is to protect former mental patients from exploitation by unscrupulous operators, that is a function that could be better served by health and

building codes.

It is a pity that eight harmless persons who need a haven from emotional turmoil should be subjected to legal harassment. It's an old, unhappy pattern in Hackensack and in too many other communities that like to think of themselves as friendly and enlightened.

Note: Robert Hollis Esq. filed suit against the Psychiatric Halfway House on Behalf of Plaintiff Salvatore Moretti

Case Title: In the Matter of Robert A. Hollis, an Attorney at Law. argued November 29, 1983, Decided February 3, 1984.

Synopsis.

Attorney disciplinary proceeding was brought. The Supreme Court held that failure to prosecute actions on behalf of clients, failure to record mortgage, failure to supply inventory of all pending cases to proctor for law practice, and failure to promptly pay client's mortgagee out of trust account warrant suspension from practice of law for period of three years.

Suspension ordered.

Colette A. Coolbaugh, Counsel, argued the cause for complainant Disciplinary Review Board.

John P. Libretti and Nine D. Cariddi, argued the cause for respondent (Libretti and Weston, attorneys).

PER CURIAM

"This disciplinary matter was originally before us on January 12, 1982, the return day of an order to show cause why the respondent, a member of the bar of this State, should not be disbarred or otherwise disciplined because of his allegedly inappropriate conduct involving five different matters. We were satisfied upon our review at that time that a substantial suspension period was warranted. (The Disciplinary Review Board had recommended a two-year suspension.) We were advised then that five additional

complaints against the respondent were pending before the District Ethics Committee. We therefore suspended the respondent temporarily commencing January 21, 1982 pending completion of those proceedings.

The District Ethics Committee held hearings on the additional complaints. The entire matter was then reconsidered by the Disciplinary Review Board, which recommended that respondent be suspended for a three-year period, commencing as of January 21, 1982. After our initial review we remanded one aspect of the cause, possible misappropriation of trust funds, for a further hearing before the District Ethics Committee. This has been completed and we have had oral argument on the entire record.

Based on our independent review, we have come to the same conclusions as the Disciplinary Review Board on the Moretti, Schult, Medaska, Koehl, Cherevas, Messimer, Oskoniewsi complaints and the proctorship matter. We adopt the Board's following findings and conclusions in those respects:

[A.] **MORETTI MATTERS**

Beginning in March of 1978, the respondent was retained by Salvatore Moretti to represent him personally and to represent his company, the ROR Construction Corporation, in three separate matters.

1.) MORETTI v. BOARD OF ADJUSTMENT OF HACKENSACK AND FRIENDSHIP HOUSE

Moretti retained the respondent to institute suit against the Board of Adjustment of Hackensack and Friendship House in connection with a zoning variance. A complaint was filed in April 1978 with the Superior Court, Law Division, Bergen County. On October 25, 1978, the complaint was dismissed by the Honorable Theodore Trautwein, J.S.C. for failure to prosecute, since respondent neither served or attempted to serve the summons and complaint. Although respondent thereafter communicated with his client on numerous occasions, He failed to advise Moretti that the matter had been dismissed. To the contrary,

respondent, advised Moretti that a hearing was scheduled for November 17, 1978. Moretti retained new counsel in April of 1979.

2.) ROR CONSTRUCTION CORPORATION v. BOARD OF ADJUSTMENT AND JADEMOR INUSTRIAL COMPANY

Respondent was also retained by Moretti to represent ROR Construction Company in a suit against Jademor Industrial Company and the Hackensack Board of Adjustment. although respondent prepared and filed a complaint, docketed as L-323-78, with the Superior Court, Law Division, Bergen County, he failed to serve the summons and complaint upon the defendants. Respondent then misrepresented the status of the case to his client on several occasions by stating that they were awaiting a court date.

In April 1979, the file was turned over to Moretti's new counsel.

3.) MORETTI ET ALS v. MULTIPAK CORPORATION

In a third case, Moretti retained respondent to institute suit against Multi-Pak Corporation to obtain a restraining order to prevent Multi-Pak from maintaining a nuisance. A complaint [256] was never filed, although the complainant testified that respondent had advised to the contrary. The respondent denied so advising his client. He testified that he was told by the law clerk to the Bergen County Chancery Judge that more than one affidavit was necessary to obtain a restraining order. Respondent claimed to have so advised his client.

In addition, respondent stated that the attorney for Mult-Pak had verbally agreed that the company would institute noise abatement procedures. That agreement was not confirmed in writing. Respondent testified that until his client again complaint to him in the fall of 1978, he assumed that the matter was resolved.

Although respondent had not filed a complaint in the matter, a bill dated June 16, 1978 paid by Moretti reflected charges for 3 1/2 hours of work in the preparation of the complaint as well as for a $60 filing fee. Moretti obtained a

copy of the complaint from respondent in December 1978 and filed it with the Superior Court.

[D.] PROCTORSHIP

At the first hearing before the Board, on June 17, 1981, we reviewed correspondence from Water Whitman, Esq. who had previously agreed to act as proctor for the respondent's law practice. That correspondence indicated that the respondent had failed to supply an inventory of all of his pending cases and had failed to maintain contact with the proctor. Respondent represented that he had forwarded the requested list to Mr. Whitman more than one month before the Disciplinary Review board hearing. He further indicated that he could have been more diligent in a number of the matters complained of but had no excuse for his conduct. In addition, he stated that he had undergone psychiatric treatment for 16 to 18 months, ending in [258] June of 1980. He indicated that the psychiatrist had helped in certain areas, particularly with respondent's tendency to hold up on matters.

Conclusions

"A common theme runs throughout all these matters, a failure to meet the demands of each case. His lack of diligence was egregious. Indeed, he aggravated his failings by misleading his clients, failing to communicate with them, and defaulting in the transmittal of documents when they were due. He even was delinquent in furnishing an inventory list of his cases to an attorney who had agreed to act as his proctor. It is conduct typified by the respondent that brings the profession into disrepute with the public. It is inexcusable. Respondent has violated DR 1-102(A)(4), (5) and (6), DR 6-101(A)(1) and (2), and DR 67-101(A)(2), and R. 1:21-6.

We are sympathetic with the fact that respondent endured some trying personal problems involving his children's physical conditions during some of the period when these misadventures occurred. Moreover, respondent has been under psychiatric care off and on for some years. However,

those circumstances, though of a mitigating nature, do not excuse his conduct. Respondent is to be suspended from the practice of law for a period of three years, commencing as of January 21, 1982, the date of his temporary suspension. Upon his return to practice, [262] he shall not be permitted to practice law except under the supervision of a member of the bar. Accordingly, when respondent seeks reinstatement, he shall inform us of the name of the attorney and the details of the proposed supervisory arrangement. The terms and conditions shall, of course, be subject to our approval. When seeking reinstatement, respondent shall also submit to use a report of a psychiatrist based on a recent examination indicating respondent's capability to resume the practice of law.

Respondent shall reimburse the Administrative Office of the Courts for costs.

For suspension - Chief Justice WILENTZ and Justice CLIFFORD, SCHREIBER, HANDLER, POLLOCK, O'HERN and GARIBALDI - 7.

Opposed - None.

IN THE MATTER OF ROBERT A. HOLLIS, AN ATTORNEY AT LAW. October 12, 1993. 134 N.J. 124, 631 A.2d 545 [Supreme Court of New Jersey, 1993]

Synopsis

In attorney disciplinary proceeding, the Supreme Court held that three-year suspension is warranted when attorney, in handling of matter on behalf of criminal defendant, engages in gross negligence, failed to act with reasonable diligence, fails to explain matter to extent reasonably necessary to permit client to make [125] informed decisions, failed to withdraw from representation, fails to expedite litigation, and engages in conduct involving dishonesty, fraud, deceit or misrepresentation.

Suspended.

ORDER

"The Disciplinary Review Board having filed a report with

the Supreme Court recommending that ROBERT A. HOLLIS of HACKENSACK, who was admitted to the bar of this State in 1971, be publicly disciplined for violations of RPC 1.1(a) gross negligence), RPC 1.3 (failure to act with reasonable diligence), RPC 1.4(a) and (b)(failure to explain a matter to the extent reasonably necessary to permit a client to make informed decisions), RPC 1.16(a)(1) (failure to withdraw from representation) RPC 3.2 (failure to expedite litigation) and RPC 8.4 (c) (conduct involving dishonesty, fraud, deceit or misrepresentation) in his handling of a matter on behalf of a criminal defendant, and good cause appearing;

It is ORDERED that the findings of the Disciplinary Review Board are adopted and ROBERT A HOLLIS shall be suspended from the practice of law for a period of three years, effective October 1, 1993; and it is further [126]

ORDERED that the entire record of this matter be made a permanent part of respondent's file as an attorney at law of this State; and it is further

ORDERED that ROBERT A HOLLIS be restrained and enjoined from practicing law during the period of his suspension; and it is further

ORDERED that ROBERT A. HOLLIS comply with Administrative Guideline No. 23 of the Office of Attorney Ethics dealing with suspended attorneys; and it is further

ORDERED that ROBERT A HOLLIS reimburse the Ethics Financial Committee for appropriate administrative costs incurred in the prosecution of this matter.

App. 190

SALVATORE MORETTI
CANAL STREET STATION
P. O. BOX 1306
NEW YORK, NEW YORK 10013

February 7, 2000

Supreme Court of New Jersey
Richard J. Hughes Justice Complex
25 West Market Street, P. O. Box 970
Trenton, New Jersey 08625-0970

re: Salvatore Moretti, Plaintiff-Appellant, v. United Water Resources, Inc., City of Hackensack, and State of New Jersey, Defendant-Respondents. Supreme Court No. 49,242. Appellate Division A-1901-98T2.

Dear Sirs:

Enclosed find plaintiff-appellant Salvatore Moretti's Notice of Appeal to the New Jersey Supreme Court from the decision rendered January 14, 2000 by the Appellate Division, a copy of which is appended hereto.

As I have notified the parties in interest in related cases, it appears that the case sub judice is a quasi-criminal forfeiture in which real property has been subjected to a forfeiture. The appeal of this matter is pursuant to R. 2:2-5(b) and involves the final judgment of the Appellate Division dated January 14, 2000; this appeal is within the time required as set forth by R. 2:4-1.

By copy of this letter I am advising the below listed of the appeal and providing them with the requires documentation.

Very truly, (s) Salvatore Moretti

enc.

cc: United Water Resources, Inc., City of Hackensack, State of New Jersey

Salvatore Moretti, Appellant
Canal Street Station
P. O. Box 1306
New York, New York 10013

APPELLATE DIVISION OF THE SUPERIOR COURT

Salvatore Moretti,
Appellant
vs.
United Water Resource, Inc.,
Chase Mortgage Services, Inc.
Respondent

PROOF OF SERVICE OF NOTICE of APPEAL
Case No. A-1901-98T2

PROOF OF SERVICE

Salvatore Moretti, APPELLANT in the above entitled case, by way of affidavit, hereby declares under penalty of law as follows:

1. On February 7, 2000 I posted the Notice of Appeal to the N. J. Supreme Court from the January 14, 2000 Final Judgment of the Appellate Division in the above captioned case to the Hackensack Post Office.

2. The Notice of Appeal was posted to be delivered to the following addresses shown:
Stephen W. Townsend, Clerk of the Supreme Court, Hughes Justice Complex, 25 West Market Street, P. O. Box 970, Trenton, N. J. 08625; Emille R. Cox, Appellate Division Clerk's Office, Richard J. Hughes Justice Complex, 25 West Market Street, P. O. Box 006, Trenton, New Jersey 08625; State of New Jersey, c/o Attorney General Farmer, Office of the Attorney General, P. O. Box 080, Trenton, N. J. 08635-0080; Hackensack City Attorney Richard Salkin, 50 Main Street, Hackensack, N.J. 07601; United Water Resources, Inc., c/o John P. Wallace, Esq., 216 East Ridgewood Avenue, Ridgewood, N. J. 07450.

3. The foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: February 7, 2000

Signed By: (s) Salvatore Moretti

NOTICE OF APPEAL
SUPREME COURT OF NEW JERSEY
TITLE OF ACTION AS CAPTIONED BELOW:
ATTORNEY OF RECORD

SALVATORE MORETTI, Plaintiff-Appellant
v.
United Water Resources, Inc., City of Hackensack, and State of New Jersey, Defendants-Respondents

NAME: Salvatore Moretti
ADDRESS: Canal St' Station
P. O. Box 1306
N. Y., N. Y. 10013-0876
PHONE NUMBER
ATTORNEY FOR - PRO SE
ON APPEAL FROM:
Appellate Division of the Superior Court

NOTICE IS HEREBY GIVEN THAT Salvatore Moretti APPEALS TO FROM THE ORDER ENTERED IN THIS ACTION IN FAVOR OF
United Water Resources, Inc., City of Hackensack, and State of New Jersey
IF APPEAL IS FROM LESS THAN THE WHOLE, SPECIFY WHAT PARTS OR PARAGRAPHS ARE BEING APPEALED:

_____

ARE ALL ISSUES AS TO ALL PARTIES DISPOSED OF IN THE ACTION BEING APPEALED? Yes.
IF NOT, IS THERE A CERTIFICATION OF FINAL JUDGMENT ENTERED PURSUANT TO R. 4:42-2?
PRIORITY UNDER R. 1:2-5. n.a. APPLICABLE SECTION UNDER THE RULE.
IN CRIMINAL, QUASI-CRIMINAL, AND JUVENILE CASES...NOT INCARCERATED [X], INCARCERATED [ ], CONFINED AT: GIVE A CONCISE STATEMENT OF THE OFFENSE AND OF THE JUDGMENT, DATE ENTERED AND ANY SENTENCE OR DISPOSITION IMPOSED:
NOTICE OF APPEAL HAS BEEN SERVED ON:
COURT ORDER APPEALED FROM: DATE OF SERVICE TYPE OF SERVICE
Appellate Division of the Superior Court First Class letter mailed Feb. 7, 2000 to the
Appellate Div.,. Hughes Justice Center, Trenton, N. J. 08625
N. J. Attorney General Farmer First Class letter mailed Feb. 7, 2000 to the Office of the Attorney General, Hughes Justice Center, P. O. Box 080, 225 West Market St., Trenton N. J. 08625
City of Hackensack First Class letter mailed

Feb. 7, 2000 to theOffice of Hackensack City Attorney Richard Salkin, Esq.50 Main Street, Hackensack, N. J. 08625.
United Water Resources, Inc. First Class letter mailed Feb. 7, 2000 to the Attorney for United Water Resources, Inc., John P. Wallace, Esq., 216 East Ridgewood Avenue, Ridgewood, N. J. 07450.

NOTICE OF APPEAL HAS BEEN SERVED ON:
OTHER PARTIES DATE OF SERVICE
TYPE OF SERVICE
Name and Designation

I HEREBY CERTIFY THAT I HAVE SERVED A COPY OF THIS NOTICE OF APPEAL ON EACH OF THE PERSONS REQUIRED AS INDICATED ABOVE.

Date: Feb. 7, 2000
Signature of Attorney of Record: (s) Salvatore Moretti, Appellant
PRESCRIBED TRANSCRIPT REQUEST FORM HAS BEEN SERVED ON: (ALSO INDICATE IF SOUND RECORDED). No Transcript. Decision Is Attached Hereto
NAME DATE OF SERVICE
AMOUNT OF DEPOSIT
ADMINISTRATIVE OFFICE
OF THE COURTS, CHIEF,
COURT REPORTING SERVICES _____
COURT REPORTER'S SUPERVISOR/
CLERK OF COURT OR AGENCY _____
COURT REPORTER _____

I HEREBY CERTIFY THAT I HAVE SERVED THE PRESCRIBED TRANSCRIPT REQUEST FORM ON EACH OF THE ABOVE PERSONS AND PAID THE DEPOSIT AS REQUIRED BY R. 2:5-3(d)
Date:
Signature of Attorney of Record: (s) Salvatore Moretti, Appellant

I HEREBY CERTIFY THAT:
[X] THERE IS NO VERBATIM RECORD.
[ ] TRANSCRIPT IS IN THE POSSESSION OF THE ATTORNEY OF RECORD.
[ ] A MOTION FOR ABBREVIATION OF T6RANSCRIPT HAS

BEEN FILED WITH THE COURT OR AGENCY BELOW.
[ ] A MOTION FOR FREE TRANSCRIPT HAS BEEN FILED WITH THE COURT BELOW.
Date: Feb. 7, 2000
Signature of Attorney of Record: (s) Salvatore Moretti, Appellant

SUPREME COURT OF NEW JERSEY CIVIL CASE INFORMATION STATEMENT

TITLE IN FULL: FOR OFFICIAL USE ONLY
Salvatore Moretti, APPEAL DOCKET NO.
Plaintiff-Appellant,
v. NOTICE OF APPEAL
United Water Resources, Inc., City FILED:
of Hackensack, and State of New Jersey, DATE SENT:
Defendants-Respondents.

Appellant's Attorney Plaintiff X
Name: Salvatore Moretti, Canal Street Station, P. O. Box 1306, New York, New York 10013-0876.
Respondents' Attorneys:
United Water Resources, Inc.'s Attorney is John P. Wallace, Esq., 216 East Ridgewood Avenue, Ridgewood, N. J. 07450. Tel. No. (201) 445-3533
City of Hackensack's Attorney is Richard E. Salkin, Esq., 50 Main Street, Hackensack, N. J. 08625. Tel. No. (201)342-3626
State of New Jersey's Attorney is Attorney General Farmer, Office of the Attorney General, Hughes Justice Center, P. O. Box 080, 225 West Market St., Trenton N. J. 08625 Tel. No. (609)292-8740
GIVE DATE AND SUMMARY OF TERMS OF JUDGMENT ENTERED BELOW:
The Appellate Division ruled in favor of the dismissal by Bergen County Superior Court Judge Stark who dismissed the complaint by Moretti under R. 4:6-2(e). The complaint stated that Moretti's real property at 391-395 Park St., Hackensack, N. J., (a twenty unit apartment house) had been subjected to a taking due to fraudulent water bills and permission by the City and State to close down the apartment house on April 1, 1997. In fact the two residential apartment buildings assessed over $600,000 have been closed down and boarded up since then. Moretti has suffered a rental loss of $13,000 per month since April 1997 amounting to over $400,000, while the city claims that it is due real estate taxes. Moretti claims that the

water company is being used to condemn his apartment house, and that the acts of the defendants amount to working a forfeiture on the subject real property.

Does this determination dispose of all issues as to all parties? Yes.

Is the validity of a statute, executive order, or constitutional provision of this State questioned? Yes. The N. J. Forfeiture Statute, N.J.Stat.Ann.. 64-1. The Federal and State Constitutions prohibit taking property without just compensation. Moretti claims that the administrative code requires hearings to shut off all utilities, which in the case at bar have not been provided. The amount due and owing was based on a defective water meter which the state, city, and water utility have refused to test or inspect.

Give a Brief Statement of the Facts and Procedural History. The City passed Resolution 260 stating that Moretti owed a water bill, despite Moretti's statement that the water bill exceeded the fuel oil bill and was clearly confiscatory. State/city inspectors inspected and in collusion with minority tenants and transients trashed Moretti's buildings, blaming Moretti. Moretti attempted to have his real estate taxes reduced, but was ignored by the N. J. Tax Court, and the federal district court. Moretti claims the innocent owner defense applies in the forfeiture worked. The Superior Court refused to consider any of these arguments and dismissed on the city's motion for summary judgment. The Appellate Division affirmed the trial court judgment on January 14, 2000. Plaintiff-Appellant Moretti appeals therefrom.

TO THE EXTENT POSSIBLE, LIST THE PROPOSED ISSUES TO BE RAISED ON THIS APPEAL, AS THEY WILL BNE DESCRIBED INAPPROPRIATE POINT HEADINGS PURSUANT TO R. 2:6-2(A)(5). APPELLANT: Point I. The Innocent Owner Defense Applies in the Case at Bar. Point II. The Relation Back Doctrine Does Not Vest Ownership of the Subject Real Estate in the State/City/Water Utility. Point III. The Forfeiture Worker Was Planned by Hackensack Prosecutor Amoroso who Advised the Municipal Court Judge Dinice how Rents Could

be Seized, Tenants' Subsidies Confiscated, and the Building Vacated. Point IV. The Attack on the Creditworthiness of Moretti is Without Just Foundation Point V. Prosecutor Amoroso Exceeded His Power as Municipal Prosecutor when he Jailed Tenants at 391-5 Claiming Violation of the Narcotic Laws, i. e. In Effect Claiming Moretti Operated A Crack House Resulting In Moretti's Being Jailed Repeatedly in the County Jail, and in the City Jail, (This Dual Role- Acting as Lawyer and Prosecutor in the same county - has been Prohibited by the Supreme Court recently in the Clark Case.

1. Is there any case now pending or about to be brought before this court which:
(A) Arises from substantially the same case or controversy as this appeal? The forfeiture matter has not been litigated, but Moretti has filed appeals in the Supreme Court for many years which have stated that there are zoning, planning, and municipal problems at the subject real estate at 391 Park St., Hackensack, N. J. Now the city/state/utility have chosen to act by closing down the building upon the issuance of fraudulent water readings and have thereby worked a forfeiture as described.
(B) Involved an issue that is substantially the same, similar or related to an issue in this appeal? See answer above.
If Yes, State Case Name, and Appellate Division No. My legal files were seized by the Bergen County Sheriff when my office was shut down and I was evicted from 390 Park St, Hackensack, N. J. I do not have this information available at this time.

The time for filing your brief and appendix is governed by Rule 2:6-11 unless modified by court order. If any circumstances exist which might justify a shorter or longer period of time, give a detailed explanation. Your answer does not alter the time limits set forth in the Rules of Court. I have been supplying the Supreme Court with voluminous materials, and the delays encountered from the shut down of

my office and the loss of income have caused delays.

In the event there is any change with respect to any entry on the Case Information Statement, appellant shall have a continuing obligation to file an amended Case Information Statement on the prescribed form.

Filed by Appellant: SALVATORE MORETTI.
DATE; FEBRUARY 7, 2000.
SIGNATURE (s) Salvatore Moretti, Pro Se Appellant

Salvatore Moretti
Canal Street Station
Post Office Box 1306
New York, New York 10013-0876

November 1, 2000

Clerk of the Court
United States Supreme Court
United States Supreme Court Building
1 First Street, N. E.
Washington, D. C. 20543

re: Appeal to the United States Supreme Court from the Final Judgment of the New Jersey Supreme Court rendered on October 3, 2000, Salvatore Moretti v. United Water Resources, Inc., City of Hackensack, and State of New Jersey, N. J. Supreme Court No. 49,242.in re: United Water v. Moretti, BER-L-4114-98; in re: 391-395 Park Equities v. Moretti, F750298, Ch 755964; in re: N. J. v. Moretti, Municipal Court, Complaint No. SC 2000 001566, and Order to Remove Fuel Oil Tank from 391 Park St., Hackensack; in re: Motion for Summary Judgment, Moretti v. Citibank, N. A., Citibank, Branch No. 11, Mary Wing, John Doe, et al., Index No. 2727-96. Motion for Summary Judgment dealing with robbery.

Dear Sir:

I enclose the Index to the Innocent Owners Defense to the forfeiture of real estate in Hackensack, New Jersey, the county seat of Bergen County. Said papers were filed with the state agents in the county seat.

On October 27, 2000, I wrote to you that the appeal papers were presenting a problem due to the forfeiture which shut down my office at 390 Park street, Hackensack, as well as the forfeiture of a twenty unit apartment house which also stored my legal papers. Files from the three buildings had been removed and sold as well. Office equipment was sold. Such office equipment as remains is not being repaired by the manufacturer or their service companies. I have to work seven days per week until midnight to pay off credit card debt and restore credit due to the refusal to extend loans by the recently merged banks.

As a result, I believe that I may need an extension of the time within which to file the appeal papers.

Very truly,
(s) Salvatore Moretti
enc. Index to Innocent Owners Defense

Related Cases:

Salvatore Moretti
Canal Street Station
Post Office Box 1306
New York, N. Y. 10013-0876

SALVATORE MORETTI,
Plaintiff
v.
JOSEPH CICCONE, SHERIFF OF BERGEN COUNTY, AND THE BERGEN COUNTY SHERIFF'S DEPARTMENT,
Defendants

U. S. DISTRICT COURT
NEWARK, NEW JERSEY

DOCKET NO.: 04809 (FSH)

COMPLAINT AND JURY DEMAND
DEFICIENCY ACTION, AND
CIVIL RIGHTS VIOLATIONS

PARTIES

SALVATORE MORETTI, property owner, 387, 390, 391, 395 Park Street, County of Bergen, City of Hackensack, State of New Jersey.
SHERIFF JOSEPH CICCONE, Sheriff of Bergen County, State of New Jersey

BERGEN COUNTY SHERIFF'S DEPARTMENT, COUNTY OF BERGEN, STATE OF NEW JERSEY.

JURISDICTION

Deficiency Action under New Jersey Stat. Ann. 2A: 50-3: Plaintiff claims that the Sheriff's Sale to T Performance was a sham sale resulting in an inadequate sale price. T Performance sold to Yolanda for $109,000 profit four months after the owner was evicted by the Bergen County Sheriff of February 11, 1998. Moretti protested that there was no certified check given at the Sheriff Sale by T Performance, the only statement by a friend of O'Shea was that he was in real estate and he knows about such matters. Plaintiff Moretti's properties were previously rendered economically useless by the City/State (contrary to Lucas v. South Carolina Coastal Council, 505 U.S. 1003, 112 S. Ct. 2886, 120 L.Ed.2d 798). Moretti sued in state superior court (Bergen County) due to inverse condemnation.

Moretti claimed that a non-judicial administrative foreclosure deprived him of his property. The administrative foreclosure used fraudulent water bills to deprive Moretti of ownership. Suit was dismissed without a trial and Bergen county Chancery court refused to hear case as well. The City of Hackensack denied police services; the Chief of Police Charles "Ken" Zisa illegally ran for political office District 37 Assemblyman, contrary to city ordinance prohibiting the police from running for political office. The ordinance was not enforced due to the fact that police chief Charles "Ken" Zisa was the brother of the mayor of Hackensack, John "Jack" Zisa. The city attorney, Richard Salkin, was the campaign treasurer for both John and Charles Zisa. The offices of both the full time city manager, LaCava, and the municipal judge, Louis Dinice, were rendered useless since the head of Bureau of Criminal Justice was Frank Zisa, Jr. (son of the former mayor Frank Zisa Sr.) B.C.I. provided Louis Dinice with numerous reports in order to issue search warrants and arrest and incarcerate Moretti in the county jail and eventually seized Moretti's properties, in violation of Moretti's civil rights, as guaranteed by 42 United States Code Section 1983, et. seq.

COMPLAINT

SALVATORE MORETTI, BY WAY OF COMPLAINT, HEREBY UNDER OATH DECLARES AS FOLLOWS:

COUNT ONE

1. Salvatore Moretti is the owner of property situated at 387-390391-395 Park street, Hackensack, New Jersey.
2. Salvatore Moretti, plaintiff, submitted an Innocent Owner Defense to forfeiture of said properties to the Federal Bureau of Investigation, the New Jersey Attorney General, the Internal Revenue Service, the Bergen County Prosecutor's Office, the Sheriff of Bergen County, the Manhattan District Attorney, and others, and attach hereto copies of part of the 6,000 pages thus far submitted.
3. The gravamen of this action is that T Performance reaped a windfall as a result of the sale of Moretti's property at 390 Park Street, Hackensack, New Jersey of $109,000 as the result of an inadequate sale price at the Sheriff=s Sale

conducted by the Sheriff of Bergen County. The transfer is recorded at Bergen County Deed Book 8124, page 623 et. seq. Which states that Bergen County Sheriff Jay Alpert transferred title of 390 Park Street, Hackensack to T Performance, Inc. for $56,000,00 on October 2, 1998. T Performance, Inc. sold the single family house located at 390 Park Street to Eric M. Reynolds and Yolanda Reynolds on June 18, 1999 for $165,000, recorded at Bergen County Deed Book 8199, page 629.

4. The Sheriff evicted Moretti on February 11, 1999 from 390 Park Street, Hackensack, despite the pendency of state chancery court and Superior court appeals.
5. All of Moretti's belongings were removed from the house at 390 Park Street, Hackensack, and subsequently sold by a storage facility, despite knowledge that Moretti was a law school graduate and running an office from his home at 390 Park Street, Hackensack. Moretti operated a twenty unit apartment house (387-391-395 Park Street, Hackensack, New Jersey) from the single family house at 390 Park street, Hackensack. Moretti was also a political candidate for city council in 1981, and had paid off all mortgage as early as June, 1979. Continued loans were need to stabilize the neighborhood due to nuisances such as the burning down of 111 Passaic Street 50 feet from Moretti's apartment house on March 10, 1978, due to an adjacent psychiatric halfway house which housed mental patients at 387 Park Street, and an adjacent garbage compactor factory fronting on Railroad Avenue. Moretti was the victim of an assault and battery by a mental patient in 387 Park Street, Hackensack. Moretti's car was axed and rammed, causing $1,700 of damage. Moretti's house at 390 Park street, Hackensack, had all its doors sealed shut by B. Freeman, but the police chief refused to accept the complaint claiming any such complaints would result in Moretti's being jailed at the county jail (Moretti was so jailed at the Bergen County Jail, River street annex, due to his filing the complaint).

6. The city of Hackensack had denied police services over ten years to Moretti at these addresses due to a conflict resulting from the chief of police also being a Democratic assemblyman for District 37. Police Chief Charles 'Ken" Zisa used campaign contributions from the city attorney Richard Salkin and brothers Frank Jr. (head of Bureau of Criminal Identification) and John "Jack" Zisa, the mayor of Hackensack. The police chief also demanded payments from Moretti and numerous other business managers for his political campaigns, and shut down non-contributors.

WHEREFORE MORETTI DEMANDS $109,000 FROM THE PROCEEDS OF THE SALE, AND SUCH OTHER RELIEF AS MAY BE DUE UNDER THE FACTS AND LAW AS A TRIAL BY JURY MAY REVEAL IN THIS MATTER.

Date: September 29, 2000

Signed by (s) Salvatore Moretti, Plaintiff

CERTIFICATION

I, Salvatore Moretti, hereby verify that the foregoing statements made by me are the truth. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date: September 29, 2000

By: (s) Salvatore Moretti

JURY DEMAND

Plaintiff demands a trial by jury on all facts in controversy.

Date: September 29, 2000

By: (s) Salvatore Moretti

State of New Jersey, Plaintiff-Respondent, v. Harry Kittrell, Defendant-Appellant. 145 N.J. 112, 678 A.2d 209, Argued February 13, 1996 - Decided July 3, 1996. There is a case involving Leo R. Jones, and Lonzie Collier at the buildings adjacent to Salvatore Moretti's home (described as a known drug location by the Appellate Division in the New Jersey Superior Court Reports) at 390 Park Street, Hackensack, and directly across the street from 391-5 Park Street, Hackensack, N. J. The case was heard by the Appellate Division, which

found on behalf of the defendants, but was reversed by the New Jersey Supreme Court. State of New Jersey, Plaintiff-Respondent, v. Leo R. Jones, Defendant-Appellant, Superior Court of New Jersey, Appellate Division was submitted October 4, 1994, and decided November 14, 1994. The Synopsis of that case is as follows:

SYNOPSIS

Defendant was convicted of burglary, in the Superior Court, Law Division, Bergen County, and defendant appealed. The Superior Court, Appellate Division, Long, J.A.D. held that outstanding arrest warrant against codefendant, along with flight of co-defendant and defendant into knowing [known] location, did not meet exigent circumstances exception to search warrant requirement.

Reversed and remanded.

Before Judge BRODY, LONG AND LEVY.

John J. Fahy, Bergen County Prosecutor, attorney for respondent (John J. Scaliti, Assistant Prosecutor, of counsel and on the letter brief).

Bergen County Indictment No. S-0603-90 charged defendant, Leo R. Jones, with first degree robbery contrary to N.J.S.A. 2C:15-1 (count one); burglary, contrary to N.J.S.A. 2C:18-2 (count two); possession of heroin, contrary to N.J.S.A. 2C:35-10a(1) (count three); and receiving stolen property, contrary to N.J.S.A. 2C:20-7 (count six) [Fn. 1: The indictment also charged Lonzie Collier with first degree armed robbery (count three), burglary (counts two and four), possession of heroin (count three), and theft (count five). In addition, the indictment charged Dwight Medley with possession of heroin (count three).]

Prior to trial, defendant moved to suppress the physical evidence obtained against him as a result of a search and seizure which took place on October 18, 1989. He also moved to suppress [p. 116] the oral statements he gave to the police. The motions were denied.

The counts of the indictment regarding defendant were severed and he stood trial on the burglary charge. He was

found guilty and sentenced to a four-year custodial term to run consecutively to the sentenced he was then serving. An appropriate Violent Crimes Compensation Board penalty was also imposed.

Defendant contends that the following errors warrant reversal:

POINT I:

DEFENDANT'S CONVICTION MUST BE REVERSED BECAUSE THE STATE'S UNREASONABLE SEARCH AND SEIZURE VIOLATED DEFENDANT'S FEDERAL AND STATE CONSTITUTIONAL RIGHTS.

POINT II:

DEFENDANT'S CONVICTION MUST BE REVERSED BECAUSE DEFENDANT'S INCRIMINATING STATEMENT AND THE TESTIMONY THERETO WERE ERRONEOUSLY ADMITTED IN EVIDENCE, THEREBY DEPRIVING DEFENDANT OF HIS FEDERAL AND STATE CONSTITUTIONAL RIGHTS AGAINST SELF-INCRIMINATION.

POINT III:

DEFENDANT'S FOUR-YEAR PRESUMPTIVE TERM MUST BE VACATED BECAUSE THE MITIGATING FACTORS OUTWIGHED THE AGGRAVATNG FACTORS AND/OR THE SENTENCING COURT FAILED TO PROVIDE AN EXPLICIT STATEMENT ON THE RECORD AS TO HOW THE MITIGATING AND AGGRAVATING FACTORS WERE BALANCED.

Because we agree with defendant that the search and seizure which led to the arrest violated the constitution, we reverse the order denying suppression of evidence and the inculpatory statement which was obtained as a result of his arrest; we grant suppression and reverse defendant=s conviction which was based primarily on inadmissible evidence. The facts established on the motion to suppress follow.

On October 15, 1989, Peter Katsihtis, a Hackensack resident, parked his Mazda MX6 in the parking lot of the Stony Hill Inn, which was across the street from his residence at 222 Ellen Terrace. He had permission to park there from the owner of the Stony Hill Inn, who was a relative. The following morning, Katsihtis found that the passenger's side window of his car was broken and that the car had been entered. Missing from the car [p. 117] were Katsihtis's wallet, driver's license, registration, social security card, cassette tapes and car mats.

Katsihtis reported the burglary to the Hackensack Police Department.

On October 18, 1989 Sergeants Michael Mordaga and Robert Wright of the Hackensack Police Department were conducting a surveillance near 370 Park Street, an apartment complex in Hackensack. The surveillance was on a matter unrelated to defendant. The police officers observed defendant and a Lonzie Collier drive into the parking lot close to where the officers were parked and exit from their car. Mordaga, who was aware that an arrest warrant had been issued for Lonzie Collier but was unaware of the reason for the warrant [Fn. 2. The arrest warrant was issued for Collier's failure to pay fines assessed for prior convictions.], exited the police vehicle and approached Collier and defendant. Collier and defendant immediately fled to the front of the building.

Mordaga and Wright chased the two fleeing men into the apartment building and up the stairs to the third floor where they observed the men enter apartment 312 at the end of the hall. The door was locked and Mordgaga testified that he kicked it in. He further testified: "[I]mmediately upon entering the apartment to the right of the door was a kitchen table. There were several items on that table. There was assorted narcotic paraphernalia."

Mordaga also observed several documents on the kitchen table relating to Katsihtis, including a social security card, a driver's license, a check, a bank card and a vehicle registration. The police also spotted and seized a crowbar, which was wrapped in newspaper, on the floor near the base of the table. They arrested Collier and defendant and advised them of their Miranda rights. Collier and defendant were the transported to police headquarters.

Once at police headquarters, defendant stated a willingness to cooperate with the police. Mordaga testified that "[defendant] stated that he had information regarding Lonzie Collier and [p. 118] himself committing several crimes to which he was the driver and he was willing to cooperate with the police at that time and cooperate with whatever detective

was involved in those cases" Mordaga re-advised defendant of his Miranda rights but did not himself interrogate defendant or take his statement because the crime was not narcotics related and, therefore, a detective from General Investigation was needed to obtain any further information.

Shortly after 8:00 p.m., the following day, Mordaga approached a Detective Krakowski and asked him to look through the files and see what was available about a car burglary at the Stony Hill Inn. Krakowski located the file and at around 8:50 p.m. sat down with defendant, at which time defendant was again advised of his Miranda rights. Defendant subsequently signed a waiver form acknowledging his receipt and understanding of the Miranda rights. Krakowski then took a statement from defendant relating to the October 15 burglary at the Stony Hill Inn. Defendant related that he had been in a car with Lonzie Collier and that Collier had told him to pull over to the Stony Hill Inn's parking lot. Collier existed the defendant's vehicle and used a crowbar to break into the parked car. Defendant related that when Collier returned to defendant's vehicle, Collier had said that there was nothing of value in the parked car.

Defendant did not take the stand on his own behalf at trial, nor did he call any witnesses. The jury found him guilty of burglary.

[p. 119] The State claims that the outstanding warrant against Collier, along with the flight of Collier and defendant into a known drug location (emphasis added) met the exigent circumstances exception. We disagree. In our view, this situation is governed by State v. Bolte, 115 N.J. 579, 560 A.2d 644, cert. denied, 493 U.S. 936, 110 S. Ct. [p. 120] 330, 107 L.Ed.2d 32 0 (1989). There, the court addressed the question of whether a police officer in "hot pursuit" of a person suspected of a number of motor vehicle and disorderly persons offenses, committed in the officer's presence, could make a warrantless entry into the suspect's home to effectuate an arrest. The probable cause prong of the exception obviously was met in Bolte by the officer=s observations. It was

exigency which was the issue. In reaching its conclusion that such an entry is unconstitutional, the Supreme Court in Bolte relied on the decision in Welsh v. Wisconsin for the proposition that an arrest for a minor offense rarely, if ever, can support a finding of exigency sufficient to justify a warrantless home entry. Id., 115 N.J. at 590-91, 560 A.2d 644 (citing Welsh v. Wisconsin, 466 U.S. 740, 750, 104 S.Ct. 2091, 2098, 80 L.Ed.2d 732, 743 (1984). While Welsh did not involve a question of hot pursuit, it did hold that the Fourth Amendment prohibited police from making a warrantless night entry into a home to arrest defendant for the violation of "nonjailable" traffic offense. Welsh, supra, 466 U.S. at 754, 104 S.Ct. at 2093, 80 L.Ed.2d at 746Y

[p. 121] The State argues that the warrant for Collier's arrest justified the pursuit of the fleeing defendant and Collier, as well as the entry into apartment 312, and serves to distinguish this case from Bolte. We disagree. If arrest for numerous motor vehicle and disorderly persons violations committed in the officer's presence does not justify invading the sanctity of a private home, it follows that execution of an arrest warrant issued for similar minor offenses would not validate such an invasion.

Here, the officers sought to effectuate an arrest warrant by breaking into a private home without the slightest idea whether the warrant was for murder or for the payment of a fine (the latter ultimately proving correct). Not knowing the nature of the warrant, in our view, places the pursuing officer in the same situation as in Bolte.

[p. 122] It follows that defendant's conviction for burglary must be reversed because most, if not all, of the evidence against him was inadmissible.

Reversed and remanded.

SUPREME COURT APPEAL

State of New Jersey, Plaintiff-Appellant, v. Leo R. Jones, Defendant-Respondent. Argued October 10, 1995 - Decided December 13, 1995.143 N.J. 4.

SYNOPSIS

Defendant was convicted of burglary in the Superior Court, Law Division, Bergen County, and he appealed. The Superior court, Appellate Division, 277 N.J. Super. 113, 649 A.2d 89, Long, J.A.D, reversed and remanded. State petitioned for certiorari. The Supreme Court, Garibaldi, J., held that; (1) officers who arrested defendant and his companion had valid right to enter apartment into which the pair fled in view of knowledge of an arrest warrant for companion, and (2) officers acted reasonably in using force to enter apartment and were not required first to knock and announce their presence.

Judgment of Appellate Division reversed, and conviction reinstated.

John J. Scaliti, Acting Assistant Prosecutor, argued the cause for appellant (Charles R. Buckley, Acting Bergen County Prosecutor, attorney).

Nancy Peremes Barton, Deputy Attorney General, argued the cause for amicus curiae, Attorney General of New Jersey (Deborah T. Poritz, Attorney General, attorney).

[p. 7]

The opinion of the court was delivered by GARIBALDI, J.

In this appeal, the issue is whether it was reasonable, under the Fourth Amendment of the United States Constitution and Article 1, paragraph 7 of the New Jersey Constitution, for a police officer, following the fleeing subject of an outstanding arrest warrant, to enter a private residence using force if the officer did not know the offense underlying the warrant.

[p. 8]

Two days later [after the burglary at the Stony Hill Inn], on October 18, 1989, Sergeant Michael Mordaga and Robert Wright of the Hackensack Police Department's Narcotics Street Crime Unit were conducting a surveillance near an apartment complex located at 370 Park Street. The police surveillance was unrelated to defendant. During the surveillance, the officers observed a vehicle containing

defendant and a companion, Lonzie Colier, pull into the parking lot. Mordaga recognized Collier from previous encounters and also remembered having seen an outstanding warrant for his arrest earlier that evening. At that time, Mordaga did not know the offenses underlying the issuance of the warrant. Subsequently, he learned that the warrant was issued for Collier's failure to pay fines assessed for two prior convictions of possession of narcotics paraphernalia.

On seeing Collier, the police officers exited their vehicle and approached Collier and defendant. The defendant and Collier fled. The record is unclear about whether the officers informed Collier that they had a warrant for his arrest before the men ran away. At the pretrial suppression hearing, it appeared that Collier and defendant fled before the officers had an opportunity to inform Collier that they had a warrant for his arrest Alternatively, Collier and defendant may have been too far away to have heard the officers. At trial, however, Mordaga testified on cross-examination that "he attempted to get [Collier's] attention by calling him. 'I said, "Toot" which is his nickname, "Toot", we have a warrant for your arrest.' He turned. At the same time he saw us approaching and he ran."
[p. 9]

Both Collier and defendant knew that Mordaga and Wright were police officers. It is also undisputed that both Collier and defendant fled either on seeing the officers or on being informed that the police had a warrant for Collier's arrest. Mordaga and Wright gave chase. Defendant and Collier entered the apartment building with the two police officers not far behind. Collier and defendant ran up the stairs and quickly entered apartment 312. Mordaga and Wright followed them.

The facts establish that the police tried the door, found it locked, and kicked it down. The record is unclear as to whether the officers knocked and announced their presence at the apartment before breaking down the door.

The Appellate Division's holding that police officers may not chase fleeing suspects into private residences unless armed with a warrant for a non-minor offense creates an unworkable and unreasonable standard.

Amicus curiae, the Attorney General of the State of New Jersey, and the Bergen County Prosecutor observe that because of the volume of outstanding warrants, police officers rarely know the underlying offense on which the arrest warrant is issued. Officers simply know that a warrant exists for a certain individual and that it is their duty to arrest that person when they see him or her. At trial, the court was advised that over 1,000 warrants for contempt of court alone are issued by the Municipal Court of Hackensack each year. [p. 17] The magistrate has the duty and neutrality to determine whether a warrant or a summons should be issued. If the magistrate determines that a warrant should issue, his or her decision should not be second-guessed by the police officer. Law enforcement officers have a duty to enforce validly issued arrest warrants without distinction, whether they were issued for minor or serious offenses.

[p.20] Under the totality of the circumstances here, we find that the police officers acted in an objectively reasonable manner under the Fourth Amendment and Article 1, paragraph 7 of the New Jersey Constitution, when they followed Collier, the fleeing object of the warrant, into the apartment.

The judgment of the Appellate Division is reversed, and defendant's conviction is reinstated.

For reversal and for reinstatement - Chief Justice WILENTZ, and Justices HANDLER, POLLOCK, O'HERN, STEIN, COLEMAN and GARIBALDI - 7.

For affirmance - None.

The Bergen News, Wednesday, January 3, 2001
P,S,V-3

Beleagured sheriff Ciccone finds himself target of poem
By Douglas E. Hall

Sheriff Joseph Ciccone, facing a challenge from his own Democrat party in his hope of winning a second term next year and investigations by the state Attorney General's office and the county Prosecutor's Office, the beleaguered chief of the county jail now is fighting off an attack in the form of a poem which he finds rises to the level of a bias crime.

And that's what he told the state Attorney General's office, which acknowledges his complaint, referring it to the Biased Crimes and Community Relations Office of the Division of Criminal Justice.

What does Attorney General's office think of Sheriff Ciccone's complaint? "We don't comment on any ongoing investigation," is the comment from a spokesman. The poem, which is a parity on "Twas the Night Before Christmas,"" reportedly depicts the sherif and some of his staff engaging in homosexual activities.

Sheriff Ciccone was not available for comment at press time.

Assemblyman Charles "Ken" Zisa (D- Dist.37), who is also Hackensack's police chief, announced his candidacy for Bergen County Sheriff Monday, Dec. 28, with wide support of Democrat leaders.

Sheriff Ciccone contends he has been the victim of a press/political smear campaign that has more to do with being a Democrat Sheriff in a GOP-dominated county government than on any particular shortcomings of his administration.

In November officers from the state Attorney General and the county Office arrested two of Sheriff Ciccone's department employees and charged them with corruption. Investigators

are continuing to look into whether department officers exchanged jobs and promotions for cash or contributions to Ciccone's 2001 reelection campaign fund.

Reflecting on his "non-traditional" approach to the sheriff's job, Mr. Ciccone said, "I am a law enforcement professional and brought 20 years of law enforcement experience as well as advanced educational degrees to this office."

Sheriff Ciccone, a former Fairview police sergeant and school board member, now resides in Cliffside Park.

January 17, 2000. Bergen New - South Edition (Cliffside Park, Fairview, North Bergen)

BC Sheriff pleads guilty to misconduct, campaign irregularities. By Marsha Stoltz

Hackensack - Bergen County Sheriff, Cliffside Park native and former Fairview police sergeant Joseph L. Ciccone pleaded guilty to charges of official misconduct and improperly demanding campaign contributions from public officials in Morris County Superior Court Thursday, Jan. 11.

The plea came into a response to a seven-moth investigation of his department by the state Attorney General's office and the Bergen County Prosecutor office that had already resulted in the arrest of two subordinates on various campaign fund charges.

Sheriff Ciccone's plea before judge Theodore Bozonelis effectively ended his tempestuous two-year reign at the head of the county's $35 million, 445-officer unit whose primary responsibilities are courthouse security and operation of the Bergen County Jail.

Sheriff Ciccone pleaded guilty to one count of third-degree official misconduct and one count of fourth-degree demands for campaign donations from public officials.

He specifically pleaded guilty in open court to;

- Requiring sheriff department employees to sell tickets to campaign fundraisers; and exchanging appointments, promotions and transfers to those employees for their help;

- Selling "honorary special deputy" department badges in return for contributions to his election account, charging the county for the badges and falsifying county records to hide the transaction;

- Soliciting campaign donations from vendors with potential interest in county contracts, and promising them favorable treatment of their bids in return for such donations;

- Doctoring campaign finance reports to hide the size of contributions received.

Sheriff Ciccone attorney, former Bergen County prosecutor James Fahy now with the firm of Reid Smith in Newark, declines comment. However, the Sheriff's office issued a terse statement the day of his resignation stating he was "retiring" from the post.

The plea would normally be rated a second-degree crime punishable by a maximum of 10 years in prison because of the amount of money involved. By lumping the various charges into a single third-degree offense, Sheriff Ciccone is expected to avoid jail timer, and be sentenced to probation at his hearing in March.

Shierff Ciccone was elected to the post in November 1998 in a surprise Democrat upset over Republican Jay Alpert. Since his election, Sheriff Ciccone has been the subject of continuous public disputes with the Republican-dominated Bergen County Freeholders over every aspect of his post-from progress on jail construction to escaped criminals.

Sheriff Ciccone contended he has been the victim of a press/political smear campaign that had more to do with being a Democrat Sheriff in a GOP-dominated county government than on any particular shortcomings of his administration.

Freeholder complaints escalated as the November 2000 elections neared, attempting to associate Sheriff Ciccone's misdeeds with the Democrat party challengers for Freeholder. However, Democrat candidates Jack Alter and Valerie Vanieri [p. 2] Huttle won election over the GOP incumbents, providing Democrats with their first control of government in 15 years.

Sheriff Ciccone was due to run for re-election in November 2001. However, Assemblyman Charles "Ken" Zisa (D-Dist. 37), Hackensack's police chief, announced his candidacy for Bergen County Sheriff post on Dec. 28, flanked by county and state Democrats and even former GOP Sheriff Alpert now serving as Hackensack's police sergeant.

Assemblyman Zisa's announcement was viewed as the political equivalent of a "no-confidence" vote for Sheriff Ciccone, and was widely viewed ending Sheriff Ciccone's hopes of running, at least as a Democrat-sponsored candidate.

Pleading guilty to a felony also effectively ends Sheriff Ciccone's law enforcement career. He was previously a sergeant with the Fairview police force.

December 16, 2000. The Record
Terhune resigns amid scandal
Admits errors in jail releases.
Br Randy Diamond, Trenton Bureau

State Corrections Commissioner Jack Terhune resigned Friday amid a cloud of controversy over his department's failure to give county prosecutors adequate notification that sec offenders were being released into the community.

Terhune, the former Bergen County sheriff who became corrections commission in March 1998, refused to offer a detailed explanation of is resignation, other than to say that he needed a break after 30 years of public service.

But Terhune did acknowledge that his department made mistakes in not giving county prosecutors the required 30-days notice that sec offenders were being sent back into the community.

"I take full responsibility for it," he said.

Terhune, whose resignation from the $115,000-a-year job takes effect in January, had been in hot water with senior aides to Governor Whitman over his handling of the Corrections Department's sexual offender notification program.

Per McDonough, Whitman's spokesman, said Friday that Terhune had not been asked to resign, but was leaving voluntarily.

"We're entering the last year of the Whitman administration." McDonough said. "It's perfectly understandable he would want to leave."

In a statement, Whitman praised Terhune's leadership, saying he had curbed overtime abuses and improved the safety of prison guards and inmates.

"Jack modernized the Department of Corrections with an eye on both the public safety and the [See Resign Page A-17] public coffers," she said

Terhune was appointed by Whitman when the ;previous corrections commissioner, William Fauver, was forced out after two decades.

Terhune, 52, said he needed time to ponder his future. Though he recently bought a house in Clinton Township in central New Jersey, Terhune said he would not rule out a return to Bergen County politics.

Terhune had developed a reputation as a maverick, smooth talking lawman in Bergen County who knew how to win friends and curry political favor. His support of Whitman in 1997 helped her win Bergen County, which in turn helped her win a second term in the close election.

As sheriff, he proposed the purchase of a helicopter and made a point of showing that he wasn't tough just on crime, but on inmates, too, by forcing Bergen County prisoners to co-pay for medical service.

But Terhune also has attracted his share of controversy. As sheriff, he was criticized by the state Attorney General's Office for having sheriff's officers pose as reporters to monitor a protest march.

Earlier, as a Teaneck police lieutenant in charge of the detective division, Terhune was accused by the Bergen County Prosecutor's Office of coaching Officer Gary Spath, who shot and killed a black teenager, on what to say while on trial. Terhune worked for 22 years in Teaneck before becoming sheriff in 1990.

Terhune's problems as corrections commissioner came as his department tried to comply with the state's Megan's law program, which requires county prosecutors to be notified at least 30 days before a sex offender is released from prison into the community. Prosecutors are then required to notify local residents of offenders considered likely to commit another sexual offense.

In March, prosecutors in Bergen and Passaic counties said they were not notified of the release of a man who had raped one teenage girl and thrown another from a bridge until after he was out of jail.

The man, Raymond Alves, never registered with police and was the subject of a two-week manhunt.

Terhune had insisted the oversight was an aberration.

In September, however, s state Senate investigation concluded that Alves' release was no aberration, but just one example of a systemic breakdown in the state's tracking of freed sex offenders.

The next month, Michael Chertoff, a former U. S. attorney, charged that Terhune had been "less than forthcoming" in

providing information to a legislative panel investigating the agency's failure.

Terhune's problems seemed to worsen last month when Whitman publicly expressed her displeasure that the problems were still not corrected.

The governor was responding to reports that s relative of an assault victim had spotted the man who committed the assault at a shopping mall. The victim believed her attacker was still in prison. Instead, he was released Oct. 30, according to corrections officials.

Corrections workers sent notice of his release to prosecutors in Camden County, instead of Cape May County, where the crime occurred and where he planned to live.

The controversy over the notification system wasn't Terhune's only problem over the last few months.

This fall, McDonough revealed that an internal affairs investigation by the corrections Department showed that a state-owned computer at Terhune's home was used to access pornographic material. But McDonough said the investigation showed that it was a juvenile in Terhune's home who was viewing the material on the computer, not Terhune.

Aldar Komjathy, spokesman for three corrections unions representing 1,100 supervisors who work in state prisons, said the officers did not respect Terhune.

The officers thought of his as a politician who did not understand the corrections business," Komjathy said.

The Press Journal, Thursday, September 7, 2000. P. 4
Time to impeach judges, NJ's 'Super Legislature'
By State Sen. Gerald Cardinale (R-Dist. 39)

"It's time to the people demand that their Legislature rein in the 'New Jersey Super Legislature' which has been masquerading as our court. The latest absurdity this 'super Legislature' has forced on the people is 'parents don't have a

right to know what their kids are doing,' especially if that knowledge might hurt the income of Planned Parenthood and other abortionists. If the Legislature had the foolishness to enact an absurd law, the people could rightly elect new representatives, but the 'super Legislature' (the court) is out of the people's reach.

"This latest abuse comes after a whole line of obscene impositions on the people of New Jersey by these out-of-control supreme egos, posing as judges. We have had Mount Laurel, Abbot v. Burke and requiring the public to pay for low-income women's abortions, to name a few.

"The citizens of New Jersey do not have the same recourse which is available to people inmost other states. In most states, the people's vote can oust corrupt judges, but in New Jersey the people have no such option. Autocracy should have no place in a democratic society. Even in the Soviet Union, autocratic rule has been eliminated. It's time the people of New Jersey were similarly freed.

"I suggest we start by impeaching Portiz, Long, Coleman and Stein and follow that up by appointing all judges for four-year terms with their continued tenure dependent upon a vote of confidence from the people. Many states enjoy such a system. It works well to keep judges from becoming dictators. It's time New Jerseyeans spoke out and demanded their legislators and governor support similar rights for New Jerseyeans.

Editor's note: District 39 includes Alpine. Closter, Cresskill, Demarest, Englewood Cliffs, Harrington Park, Haworth, Northvale, Norwood, Old Tappan, Rockleigh and Tenafly.

The Record, March 14, 2000, page L-1

4 suspended in Cliffside park scandal; Theft-arson conspiracy case rocks town

By Peter J. Sampson, Staff Writer

Cliffside Park - "Four borough employees, including the brother of the Bergen County sheriff and the twin sons of a councilman, were suspended without pay Monday in the wake of their indictment in a theft and arson conspiracy that has sent shock waves through the community.

"Borough Administrator Brian McGirt, said the four were relieved of their duties pending the filing of formal administrative charges.

"The four are: Fire Official David Biasco and his brother, police Sgt. Frank Biasco Jr.; Construction Code Official Robert Cimmino; and Michael Ciccone, a $37,148-a-year Department of Public Words heavy equipment operator.

"Ciccone, 38, of Dumont, is the brother of Sheriff Joseph Ciccone. He has been a borough worker since 1985 and was regarded as one of the best employees in the DPW, McGirt said.

"Cimmino, 44, of Ridgefield Park, has been construction official since 1990. He is also the borough's housing inspector and is paid a combined salary of $45,650. McGirt said the borough has asked John Candelmo, the construction official in Edgewater, to take over Cimmino's responsibilities on an interim basis.

"Fire Capt. Glenn Marvel will step in for David Biasco, who is paid $42,800 as the fire official, a post he had held since 1985.

"Frank Biasco, Jr., who joined the Police Department in 1986 and is paid $72,330 a year, was suspended without pay following his arrest last May. The town recently gave him nearly $50,000 in back pay and put him back on the payroll at the recommendation of a municipal hearing officer who cited the lengthy delay in bringing the indictment.

"The indictment, announced Friday, linked the four borough employees and four other men in a plot to [page L-5] steal furniture, a car, a furnace, and other property from an

Oregon Avenue home following the May 1998 death of its owner, Frederick Erdos, a retired maker of costume jewelry.

"As part of the scam, authorities charged, an 'alleged emergency cleanup' costing $35,000 was fraudulently staged in July 1998 by the Biascos, Cimmino, and Vincent Aiello, 40, of Ridgefield, the owner of All-Safe Environmental Services.

"Months after the contents of the house were removed, the indictment charged, the dwelling was set ablaze on Jan. 28, 1999, by Frank Biasco Jr. and Tony Issa, 27, of Cliffside Park, a volunteer firefighter at the time.

"Each of the four borough employees was indicted on multiple counts of official misconduct, theft, witness or evidence tampering, and conspiracy to commit official misconduct. In addition, the Biasco brothers, whose father is Councilman Frank Biasco Sr., were charged with conspiracy to commit aggravated arson, and Ciccone was charged with conspiracy to commit bribery.

"The other two defendants named in the 45-count indictment were Ralph Rambone, 71, of Edgewater, the father-in-law of Frank Biasco Jr., and John Villanella, 34, of Cliffside Park, both of whom were charged with receiving stolen property and other offenses.

"Edward Imperatore, an attorney for the Erdos estate, said Monday that after months of genealogical research, an investigator has found possible heirs and attempts are being made to contact them.

"The defendants will face arraignment in several weeks, at which time they will enter formal pleas and bail, if any, will be set pending a trial.

"For now, however, McGirt said the borough will do its best to cope in the face of the worst scandal in a generation.

"'People are really shocked and dismayed. Some people are angry,' McGirt said. 'It's a difficult time for all of us. But we'll be able to carry through.'

"In neighboring Ridgefield, Mayor Stewart V. Veale said Monday that Aiello will likely be relieved of his post as a battalion chief, the third-ranking officer in the volunteer Fire Department.

"'I'm just disappointed. He's a dedicated fireman, and I'm sorry that he's involved in this situation,' Veale said. 'I think we will have to suspend him until the situation is resolved.'

Bergen County Prosecutor's Office - Press Release.
To: All News Media
From" Prosecutopr William H. Schmidt
Date: March 10, 2000

Contact: Assistant Prosecutor Michael Maher (201) 752-4106.

"Bergen County Prosecutor William H. Schmidt announced today that the Bergen County Grand Jury has indicted the following people:

1. Frank Biasco, age 33, of Cliffside Park, New Jersey
2. Robert Cimmino, age 44, of Ridgefield Park, New Jersey
3. David Biasco, age 33, of Cliffside Park, New Jersey
4. Vincent Aiello, age 40, of Ridgefield, New Jersey
5. Michael Ciccone, age 38, of Dumont, New Jersey
6. John Villanella, age 34, of Cliffside Park, New Jersey
7. Ralph Rambone, age 71, of Edgewater, New Jersey
8. Tony Issa, age 27, of Cliffside Park, New Jersey

Frank Biasco is a Sergeant with the Cliffside Park Police Department. Robert Cimmino is the Construction Official in the Borough of Cliffside Park and David Biasco is the Fire Official in Cliffside Park.

The Grand Jury charged Frank Biasco with nine counts of official misconduct, three counts of witness tampering, theft, fencing, theft by deception, aggravated arson, arson, bribery, conspiracy to commit bribery, conspiracy to commit official misconduct and conspiracy to commit aggravated arson. Robert Cimmino was charged with twelve counts of official misconduct, theft, fencing, theft by deception, tampering with or fabricating physical evidence, conspiracy to commit official misconduct and conspiracy to commit aggravated arson. David Biasco was charged with eight counts of official misconduct, theft, fencing, theft by deception, witness tampering, false swearing, conspiracy to commit official misconduct and conspiracy to commit aggravated arson. The Grand jury charged Vincent Aiello with seven counts of official

misconduct, theft, fencing, theft by deception, unsworn falsification, attempted theft by deception, tampering with or fabricating physical evidence, conspiracy to commit official misconduct and conspiracy to commit aggravated arson. Michael Ciccone was charged with two counts of official misconduct, theft, receiving stolen property, fencing, three co9unts of witness tampering, bribery, conspiracy to commit bribery, conspiracy to commit official misconduct. Ralph Rambone was charged with two counts of official misconduct, theft, receiving stolen property, conspiracy to commit official misconduct. Tony Issa was charged with aggravated arson, arson, official misconduct, conspiracy to commit official misconduct and conspiracy to commit aggravated arson. John Villanella was charged with receiving a stolen automobile and fencing.

"The presentation to the Grand Jury came about as a result of an investigation that was conducted by the Bergen County Prosecutor's Office Arson Squad, under the direction of Chief Roger Kane, and the Cliffside Park Police Department, under

the direction of Chief Joseph Dickman, of a fire at the residence of 583 Oregon Avenue, Cliffside Park, New Jersey on January 28, 1999.

"The charges arise out of a fraudulent scheme involving the residence at 583 Oregon Avenue after the owner, Frederick Erdos, had passed away on May 16, 1998. This scheme included the theft of furniture and a furnace from the house as well as an alleged emergency clean-up that was billed to the borough of Cliffside Park and ultimately to Mr. Erdos' estate. A fire was then intentionally set inside the house. Further charges arose out of efforts to obstruct the investigation through witness tampering and document fabrication.

"The investigation had previously resulted in complaints being filed against Frank Biasco and Tony Issa in May of 1999.

"Prosecutor Schmidt stated that the defendants are presumed innocent until proven guilty beyond a reasonable doubt. All further questions should be directed to Assistant Prosecutor Michael Maher, Chief of the Bergen County Prosecutor's Office Arson Squad, at (201) 752-4106.

Sample of **Numerous Sheriff's Sales Conducted in Bergen** County in Relevant Time Period in 1997. Sales By Then Bergen County Sheriff Jack Terhune, who resigned from office in 2001 as Head of Trenton State Prison

Sales by Sheriff's Office of Bergen County (ACCESSED NOW BY COMPUTER TERMINAL)

FPARTY	DOCDESC	TRANSDATE	BK_FL	PAGE
TERHUNE	DEED	8/22/97	7998	163
"	"	9/2/97	8000	239
"	"	9/4/97	8000	550
"	"	9/4/97	8000	803
"	"	9/4/97	8000	859
"	"	9/8/97	8001	877

"	"	9/8/97	8002	022
"	"	9/9/97	8002	096
"	"	9/9/97	8002	343
"	"	9/9/97	8002	351
"	"	9/9/97	8002	359
"	"	9/9/97	8002	351
"	"	9/10/97	8002	514
"	"	9/11/97	8003	310
"	"	9/12/97	8003	540
"	"	9/15/97	8003	827
"	"	9/15/97	8003	965
"	"	9/15/97	8004	190
"	"	9/16/97	8004	462
"	"	9/16/97	8004	613
"	"	9/18/97	8005	510
"	"	9/18/97	8005	595
"	"	9/19/97	8006	302
"	"	9/19/97	8006	275
"	"	9/23/97	8006	817
"	"	9/23/97	8006	853
"	"	9/24/97	8007	100
"	"	9/25/97	8007	429
"	"	9/25/97	8007	543
"	"	9/25/97	8007	586
"	"	9/25/97	8007	594
"	"	9/26/97	8007	650
"	"	9/29/97	8007	987
"	"	9/30/97	8008	399
"	"	9/30/97	8008	630
"	"	10/02/97	8009	472
"	"	10/06/97	8010	332
"	"	10/07/97	8011	047

SALVATORE MORETTI, CANAL STREET STATION
P. O. BOX 1306, NEW YORK, NEW YORK 10013

August 14, 2000

Bergen County Prosecutor's Office, Bergen County Justice Center, 10 Main St., Hackensak, N. J. 07601;
Maywood Municipal Court, 15 Park Avenue, Maywood, N. J.
Sheriff's Office, Bergen County Justice Center, qo Main St., Hackensack, N. J. 07601 att Foreclosure Unit;
Superior Court of New Jersey, Bergen County Justice Center, 10 Main Street, Hackensack, New Jersey 07601

re: 391-395 Park Equities, L.L.C. vs. Salvatore Moretti, Hackensack Water Company, Mayor John Zisa, Louis J. Dinice, and Henry J. Amoroso, Docket No. F-7502-98; Appel. Division Docket No. A-001819-98T2; New Jersey Supreme Court Docket No. 48,551. State of New Jersey v. Salvatore Moretti, Municipal Court, Complaint No. SC 2000 001566, and Order to Remove Fuel Oil Tank from 391 Park St., Hackensack; United Water New Jersey v. Salvatore Moretti, BER-L-4114-98. Motion - Default Entered by Judge Hamer June 28, 2000. Certification as to Conduct of Motion. Complaint issued by Hackensack Municipal Court -grass cutting. Request for Investigation by County Prosecutor's Office. Motion for Summary Judgment, Salvatore Moretti v. Citibank, N. A., Citibank, Branch No. 11, Mary Wing, John Doe, et al., Index No. 2727-96. Motion for Summary Judgment dealing with the robbery of Salvatore Moretti at Citibank Branch No. 11, located at Canal Street and Broadway, New York City, N. Y., on August 8, 1994.

Hon. Judge of the Superior Court, Judge Irving Aronin, Bergen County Prosecutor, Sheriff's Office, et als.:

On July 20, 2000, I delivered pages 5003-5396 of my certification constituting an "innocent owner defense" to the forfeiture at 391-395 Park Street (assessed $792,000 in 1990), Hackensack, New Jersey. Due to the fact that my copy machine has copied over 500,000 copies, another maintenance call is required to correct a defect which now prevents supplying the above with the materials I have assembled. The repair should be completed forthwith and you can expect receiving your August 14, 2000 notice within a few days. The prior July 20, 2000 certification addressed the issue of whether the work at the former residential twenty unit apartment house at 391 Park street, Hackensack, N. J. had been interfered with by the Hackensack Fire Dept., the Police Dept., and the United Water Resources, Inc., and whether the shut off of water on April 1, 1997 constituted an illegal take-over and condemnation of the subject real estate. This party maintains that he has complied with the work orders issued to him by the moving parties, and in fact that the courts have been on notice of the diligence and due care of the owner of the subject real estate. In fact, as the party plaintiff and party defendant in various legal actions, I, Salvatore Moretti hereby attest that I did in fact cut the grass at the site from April to July, 2000. During this period, I paid $350.00 for the pick-up of the garbage containers on site and removal of debris three times, yet the Hackensack Fire Department Bureau of Code Enforcement claims that is insufficient. I respectfully disagree. The foregoing work by myself and consequent $2,000 Fine/Penalty by the fire department came during pendency of the above captioned case before the New Jersey Supreme Court. My single family house at 390 Park Street was flipped over as a result of a sheriff's sale conducted at the Bergen County court house. It was the former Mental Health Consultation Center of Bergen County described at p. 4263. I am a graduate of George Washington University (p. 71) and

hold a degree in Psychology. I have been active in politics (ran for Hackensack city council in 1981), zoning litigation, apartment owners associations, homeowners associations, and founded the Park Street block association. I paid off the construction mortgage to Oritani Savings on time in April, 1979 (note letter at p. 3433). These factors should have been viewed in my favor, but it was viewed in my disfavor as shown in the materials thus far submitted. For example, my home at 390 Park Street was sold to the Sheriff's Sale bidder (O'Shea's friend as payment said merely "I am in real estate, you know.") and then O'Shea within four months of occupancy/ownership realized a profit of over $109,000. At page 2465 I show that Mr. Kevin O'Shea of T Performance sold the house July 18, 1999 realizing the bonanza. Clearly the Sheriff's Sale did not reflect the property's true value. 390 Park Street, Hackensack, [subject of an arson investigation about which I have advised you], was purchased by T Performance Inc. (Kevin O'Shea) for $56,000 - Deed Book 8124, p. 6239, on October 2, 1998; T Performance gained occupancy through Sheriff's Eviction on February 11, 1999, and then sold for $165,000 July 18, 1999 to Eric & Yolanda Reynolds Book 8199, page 629.

The shut down at 391-395 Park St., Hackensack, occurred April 2, 1997. On April 1, 1997 I appeared before Judge Lawrence Smith who failed to accept money into court to avert the shut down (p. 638). I was robbed at the Citibank on August 8, 1994. It is suspicious that men threw money at my feet from May to August, 1994 at the Citibank, which I reported to the security staff at Citibank. This was at the same time that Robert Zimmerer submitted his brief to the Supreme Court on behalf of Louis Dinice to prove that I should pay Dinice for believing that the fires and break-ins occurring on Park Street showed a pattern of judicial breakdown and intolerance for voters and residents' rights. My car's windows

were axed by a vandal resulting in over one thousand dollars of damage (p. 72), and the total loss of the vehicle. Dinice conducted many hearings on water usage. The transcript, which speaks for itself, is shown at page 277 of the innocent owner defense. I have included the transcript of proceedings (P. 5190-5237) before Hackensack Judge Louis Dinice on Sept. 28, 1989 and Oct. 5, 1989 which show that the judge was biased when he conducted hearings relating to the maintenance at 391-5 Park St., Hackensack. That bias carried over to later hearings relating to water payments and finally shut-down.

The Citibank case shows that my Park Street tenants' rent moneys were stolen at Citibank. Note the excess discovery granted to Citibank's lawyers who demanded I submit to a lengthy deposition at pp. 725-1023. The apartment building at 391-395 Park St. was shut down by the fire department in April, 1997 (due to "excess water usage"), which could not be paid due to the rent money's theft at Citibank. The basis of the excess water usage has not been elucidated to date. During the shut down, John Zisa and his relative, the police chief, Ken [Charles] Zisa won office, after running unopposed in Hackensack. Donald Lenner Esq. and Richard Salkin Esq. were the treasurers for city political campaigns for Zisa and his ticket, but they also appeared in opposition to me on numerous motions and trials claiming I should not get a real estate tax reduction, etc. Contributors to these campaigns included none other than Sills Cummis, et al. lawyers for Citibank. It has come to light that there is favoritism being shown for the Zisas, who occupy posts as Mayor, Police Chief, Deputy Police Chief [formerly Head of the Bureau of Criminal Identification which issued reports showing that 370 Park Street (whose owner offered one million dollars for my property) was a known drug location]. Segregation of work to avoid conflict of interest and to insure high standards of

performance is a prime factor in producing competent accounting. Mr. James LaCava, Hackensack administrator and liaison between the part time city council and the city departments, is a C.P.A. and should know this. Mr. LaCava conducted sweeps of Park Street properties and handed out citations, resulting in my shut down, as shown in documents enclosed herein from this period. The Hackensack police chief is the Mayor's (Jack) brother, and the head of the B.C.I. (Bureau of Criminal Identification) is the also the Mayor's brother. When Ken "Charles" Zisa ran for political office (it was prohibited under the Hackensack Ordinance for members of the Hackensack Police department to run for political office - Record article, p. 2400. The fire at 390 Park Street which nearly burned down my house - while I was in the building - nearly resulted in the death of my tenant who was employed as a election pole supervisor authenticating signatures. With over 4,000 sheriff's sales in Bergen since 1987 and the resulting loss of that many citizens in the county, a case can be made for election fraud in District 37, which Assembly District Zisa represents) he apparently exceeded the authority of the office of LaCava, the certified public accountant who currently is supposed to administer the city full time as its city manager.

Contributors to the Zisas campaigns have been the city prosecutor - Henry Amoroso, Charles Mason - the real estate appraiser who submitted the high appraisal for my property, the Sills law office - which represents Citibank, the Gentile funeral parlor - which received variance approval to rezone the land adjacent to my house at 390 Park St. for funeral parking, Richard Salkin, Esq. - the city attorney, and Donald Lenners, Esq. - who opposed tax reductions for the 391-5 Park Street apartments at the N. J. Tax Court, thereby resulting in working a forfeiture of the property. The forfeiture by the local police department under the police powers of the city comes through the use of a fictional water bill which is in dispute.

The political issues in this matter originate in the re-opening of Berry and Clay streets by the railroad. I have included the transcript of the proceedings conducted by the Deptartment of Transportation on Feb. 27, 1979 (P. 5012) and August 3, 1978 (P. 5075.80) on pages 5012-5091. Not only Hackensack Mayor Frank Zisa (P. 5075.88) and Hackensack Deputy Mayor Trammell (P. 5075.103, P. 5076) addressed the Dept. of Transportation, but Senator John Skevin, (P. 5075.86), Andrew Maguire (P. 5075.123), and myself (P. 5075.107).

Recently on July 6, 2000, I was surprised to discover that a hearing had been conducted by Judge Robert Hamer on June 28, 2000 and an order entered in my absence granting the water company's motion. The order reads, "this matter having been opened to the Court on June 22, 2000, before Honorable Robert E. Hamer, and default having been entered against the defendant, Salvatore Moretti, for failing to appear before the Court on said date, and plaintiff having filed a Certification setting forth a particular statement of the items of the claim, and the amount due , it is on this 28t^{h} day of June, 2000 Ordered that judgment be entered in favor of the plaintiff United Water New Jersey, and against the defendant, Salvtore Moretti, in the sum of $11, 280.72 with costs to be taxed, (s) Robert E. Hamer, J.S.C. This order was entered despite the fact that I appeared for the motion hearing before Judge Guida, and that the court was awaiting determination by the New Jersey Supreme Court to continue the proceeding with respect to the $11,280.72. In the interim I delivered to the court and the parties in interest various materials which set forth the facts in this matter. Apparently, Mr. Wallace went to another judge to seek more rapid determination. That Judge, Robert Hamer, may never have seen the materials I submitted. In fact, I have included the transcript (at P. 5327) of Moretti v. Faith Temple decided by judge Robert Hamer in which it appears that the judge barred me from entering the court house. I appeared at

the Bergen County Court House on the morning of Oct. 24, 1994 for a pretrial conference and found that I was refused entry. I called the administrative offices of the court by telephone and announced that I was locked out of the court house by the security assigned at the front door; Judge Hamer was awaiting my appearance on a matter scheduled before his court. After a considerable number of phone calls, I was finally able to enter the building. I went to the court room of judge Hamer. Within the first few minutes, Judge Hamer stated "I don't have your legal contentions, (P. 5330-L 15), and "I'm tossing it." (P. 5330). The reviewing court states that "tax rules" and "tax rolls" (Footnote at P. 5394) were mixed up by the judge, but it appears that the judge knew quite well that a non-lawyer had appeared for a variance for a church which was incorporated, and that tax rules would be involved. In fact, the prior appearance without a lawyer resulted in approval by the board of adjustment for the property purchased at a sheriff's sale. The property was located at the railroad crossing at Berry street, Hackensack.

Interference at the subject apartment house is also reflected in the case of G.A.P. Sales Inc. v. Moretti, Bergen County District Court Docket No. 500911, Appellate Div. No. A-1035-83-T3, in which G. A. P. Sales, located across the street from city hall, delivered a defective document feeder for my SF-811 copier. The jury verdict was reduced by the Appellate Division despite the fact that I filed papers to transfer to the Superior Court Law Division due to the issues involved and the recovery limits of the respective courts. Then Mayor of Englewood Steven R. Rothman represented G. A. P. Sales, Inc.

Note also the decision before the Office of Administrative law in Newark rendered Aug. 2, 1988 (P. 5154) was overturned by the Director Nov. 1, 1988 (P. 5169). In that case a prospective tenant claimed discrimination when I rented two apartments to two black couples. She thought I should have

rented to her. It is clear that no discrimination would be involved but the prospective tenant sued anyway. She claimed she could survive in the neighborhood described in this innocent owners certification. One of the tenants I rented to, Beavers, defaulted in his rent, and when I sued, a retaliatory eviction was found by Judge Lawrence Smith - note my brief enclosed at Pp. 5269-5283.

Note the Order to Pay $2,000 dated May 10, 2000 by the Fire Prevention Bureau; this notice claims to be a legally binding claim demanding removal of the fuel oil tank, despite the refusal by Ken Zisa as Police Chief to accept my complaints/counter-claims into the police department for submission to the municipal magistrate. Apparently the fire department believes the buildings at 391-5 Park Street, Hackensack are abandoned.

I am copying in the King's County Supreme Court dealing with the robbery at Citibank - page 159 (of the rents from the tenant at Park court Apartments, 391-395 Park St., Hackensack, N. J.) - in the above captioned case, since it appears that the clerk's office in New York and the clerk's office at the Supreme Court in New Jersey have had similar difficulties "parsing" though the materials submitted to them. Justice Aronin should be advised along with the Hackensack Fire Department that I am requesting the Prosecutor's Office in Bergen County to check into the matters set forth in the innocent owner's certification filed with them and the Sheriff's Department The matters addressed concern the arson burning of 111 Passaic Street, Hackensack, (p. 3546), along with numerous other fires, instances of vandalism, break-ins, and drug dealing in the immediate neighborhood. Note the Sept. 21, 1993 report of Urgent Care Medical on the attack on my tenant, Bernard Fayehun, and myself by Osuji and company.

The numerous fire alerts at the 370 Park St. (72 unit building) forced the owner, Dr. Coccoziello to sell the property

at a total loss. Prior thereto Coccoziello offered me one million dollars for the purchase of 391 Park Street, Hackensack. A number of zoning cases involved Friendship House at 387 Park Street shown at p. 85. The Record supported this psychiatric use of the property, but this support proved ill fated. The tenants from the halfway house fought with the residents of 111 Passaic Street; a fire resulted March 10, 1978 producing the house's demolition. I trust the passage of the Civil Asset Forfeiture Reform Act of 2000 signed into law April 25, 2000 (p. 2296-2382) will facilitate your consideration of this case.

An issue of law is whether there is a conflict in interest due to the control of the Hackensack police department by Ken Zisa, the Hackensack Police Chief, who ran for a political post, District 37 Assemblyman, and was elected. City Administrator James LaCava reports directly to the Mayor and Council in his overseeing the operation of the police department. In so doing he reports to Hackensack Mayor John Zisa, Ken's brother. When Ken is not in Hackensack, the deputy chief, Frank Zisa, Jr., is in charge of the Police Department. Jack, Ken and Frank Jr. are the sons of Frank Zisa Sr. Ken Zisa has prevented the filing of my complaints with the Hackensack police department and the fire department to be considered by the local magistrate, and has told me so personally. I am requesting the Sheriff's department and the Prosecutor's office to investigate and report back to me in this case.

Public Hearing before the New Jersey Senate Law and Public Safety Committee, "Review State law governing forfeiture of property associated with criminal activity, including the system for distribution of assets seized and accountability for their expenditure" and Senate Bill No. 2241 (Supplemental appropriation of $600,000 in Federal funds to the Department of Corrections for reimbursement for illegal aliens). Location

Committee Room 11, State House Annex, Trenton, New Jersey
Date: December 11, 1995. 10:00 a.m.
Members of Committee Present: Senator Louis F. Kosco, Chairman; Senator James S. Cafiero, Vice-Chairman; Senator John A. Girgenti; Senator Edward T. O'Connor Jr.
Senator Kosco: Thank you. Okay. From the Division of Criminal Justice, Terrence Farley. I understand you're representing the Attorney General today.
Terence P. Farley: Yes, Senator. She is testifying, I believe, across the hall, as a matter of fact..
The newest directive does several things.
1. Funding from any community based programs can only be done on approval of the Attorney Genera's office and when there is a substantial involvement of law enforcement in those programs. I might add, in that regard, quite frankly, having traveled around the country, I was also an adviser to the President's Commission on Model State Drug laws and participated in all of the public hearing around the country in regard to asset forfeiture laws...

Although there was a directive that money should be in Law Enforcement Trust Funds, there was a dispute or disagreement, I guess, on behalf of a few of the prosecutors that that meant that they could have those individually in their own offices and regulate them from there. We cleared that up and made it clear that the funding agency which is the county freeholders in each of the 21 counties in New Jersey is the funding agency. Therefore, the Law Enforcement Trust Fund will now be in control of the county treasurer, not in control of the prosecutor's offices as it has been in some places.

I think the key is, and I noted in some of the questions here that were prepared in advance, a criticism by some "experts" that we had the least stringent forfeiture regulations in the country. I would clearly beg to differ with you on that. As I said, having been involved on a State and Federal level with

this, I would think our regulations could stand up to anybody's in the country, including the federal regulations, and are among the most stringent, rather than the least stringent. What we saw here is some problems, and we tried to clear them up.

As you know, former Attorney General Del Tufo, in 1986, went through a massive review of the forfeiture system in New Jersey and cleared up what he believed to have been some procedural problems and some complaints by civil libertarians in that regard and addressed specific issues and items....

Quite frankly, I have been amazed for the last five or six years in dealing with this on a State and Federal level of the complaints. When you look at New Jersey's program, back in 1992, I believe it was, the Attorney General looked at the number of complaints that had been filed related to Asset Forfeiture Programs in New Jersey. Out of 15,000 cases in New Jersey – there were actually 15 complaints filed relating to all of those cases.

Senator Kosco: Complaints from the criminal?

Mr. Farley: From citizens or victims –yes, yes.

Senator Kosco: That's an adequate statistic.

Mr. Farley: Out of 21,000 something like 15 complaints.

Senator Kosco: Why would they complain about something they agreed to? I mean most of them – in most cases, the reason that a person agreed to forfeit things is because it got them off the hook for a larger – they plea-bargained, which is another problem that we'll have a hearing on someday. So they were picked up for being a drug kingpin and they plea-bargained so that they gave up their house and their whatever, and they got off with a five-year sentence instead of life in prison. Why would that person even think about complaining?

Mr. Farley: Well, the nature of the beast, Senator, I think is the

answer.

Senator Kosco: I don't think we can use that as a measure.

Mr. Farley: No..

Senator Kosco: I think that there are very few criticisms of the confiscation laws themselves. I think that what's being questioned is the use of the4mopneyandwhere it should go to. I think that's the question. Should it go to the General Fund and then be distributed? Or should it go– Is it fair that it goes into the prosecutor's office and then gets distributed the way the prosecutor wants? Should the sheriff's department be involved in the distribution of that money? Should the local police departments be involve in it? Should it go into a General Fund and then have people apply for it and the uses of it?

I think that the uses of the money that – and the bottom line is money. If somebody takes a house, they're not going –you know, it's going to be sold, and the money is going to go into a fund. So the use of the dollars that come into the State should be used, if I recall correctly, for new programs. In other words, there sound be one-shot deals, if you will.

This year, we're going to do this, and then if we don't get the money again next year, it's not going to have any effect on what's taking place in the community, because it was a one-shot deal. I don't think that the money was ever intended to be used, as you said, for example before, to go to conventions. You're going to go to the convention anyway.

Public Hearing before Senate Law and Public Safety Committee. "Review State law governing forfeiture of property associated with criminal activity, including the system for distribution of assets seized and accountability for their expenditure."

Location Committee Room 4, State House Annex, Trenton, New Jersey. Date: March 14, 1996 10:00 a.m.

Senator Louis F. Kosco (Chairman): At this point, we'll ask our Attorney General to come forward, because I know you have a schedule to meet...

Attorney General Poritz: Thank you. I appreciate the opportunity to come before this Committee today. The appropriate use of the civil forfeiture remedy is a subject that has generated a lot of discussion. I do not pretend to be an expert on all of the issues that have been raised. For that reason, I would like this morning to discuss, in general terms, how our forfeiture statute and regulations work and what steps we have taken to make certain that the civil forfeiture remedy is used fairly and in accordance with due process requirements.

I will leave to the Director of the Division of Criminal Justice, Terry Farley, the task of providing more detailed information, since, as many of you know, Mr. Farley is a nationally recognized expert on the subject of civil forfeiture. He has traveled extensively across the country speaking on this topic in his former capacity as the Director of the National Drug Prosecution Center, an arm of the National District Attorneys Association. Mr. Farley has also written an article which was printed in the New York Law School Review, which deals with half-trusts in connection with actual forfeiture cases. Terry's article sets the record straight on those cases. I trust he will set the record straight for you today.

I did not come here this morning to be an apologist for our forfeiture laws and regulations. While I would not presume to suggest that our forfeiture procedures are perfect, I am here to say that there has been, in recent years, significant revisions and reforms; that our forfeiture procedures have been steadily evolving to meet the objective of the Legislature and to protect the rights of New Jersey's citizens, including those whose property has become the subject of a forfeiture proceeding..

Forfeiture has emerged as a powerful adjunct to our criminal laws and provides us with an important tool to deter criminals, one which does not rely entirely on prisons sand other traditional sanctions imposed by the criminal justice system..

Indeed, there are many criminal justice experts who believe that forfeiture has emerged as one of the most powerful weapons against drug traffickers and other persons engaged in criminal activity for profit. It is, ironically, the success of our aggressive use of the forfeiture remedy which has prompted some to attack our efforts. The fact is that the forfeiture program in New Jersey has been highly successful. Millions of dollars earmarked for criminal purposes have instead been put to use for law enforcement purposes and to protect the public safety.

There are, however, a few cases that have raised concerns about forfeiture laws and programs in other states, whether they are fair or whether they are misused. As you know, much attention has been focused in the last couple of weeks on a Supreme Court decision arising under a peculiar Michigan statute which provides that innocence is no defense in a forfeiture action...

In the same vein, it has been alleged that government cannot use forfeiture revenues to restore items or services which previously had been paid for as part of the so-called regular budget. Using forfeiture moneys in this way, however, is not inappropriate except in certain limited instances, such as the example I gave before – regular salaries.

Committee meeting of SCI Review Committee
"Testimony of Attorney General Deborah T. Poritz"
Location: Committee Room 1, State House Annex, Trenton, New Jersey

Date: October 3, 1995. 10:30 a.m.
Members of Committee Present:
W. Cary Edwarrds Jr., Chairman
Charlotte L. Smith-Tate
Martin L. Haines
Peter N. Perretti
Maryanne Bielamowicz
Lorraine Kulick

p. 2 et seq.

Atty. General Deborah T. Poritz: I am delighted to be here.

Thank you, Chairman Edwards and members of this Committee, for asking me to appear before you today. Your task, to review the activities of the state Commission of Investigation for the purpose of determining whether the statutory authorization for the Commissions's operation should be renewed, is critically important...

There have been suggestions that any opposition to the SCI must come from people who fear the Commission, even suggestions that some within government are out to get the SCI. It is as if the Commission should somehow be immune from examination because it examines others and, therefore, anyone who criticizes it must have reason to be afraid of it.

I want to point out that we are going through a time in government in which we are downsizing, examining out most basic assumptions about what we should be doing. The SCI cannot be immune to this examination because of its particular charge. Perhaps there are better ways to carry out that charge. Perhaps not. We must undertake this examination of the SCI, as you are doing, without fear that criticism will not be tolerated...

In this vein, I will express one last general concern: The record of you prior meetings contains comments, actually disturbing innuendo, suggesting that members of the

Department of Law and Public Safety and, in particular, Terry Farley, the Director of the Division of Criminal Justice, are out to put an end to the SCI for personal reasons. Similar suggestions, attributed to unnamed sources in the SCI, have appeared in the press.

Because of these suggestion, I feel constrained to repeat what I have said to you already in a somewhat different way. The Attorney General and the Director of the Division of Criminal Justice have a right, if not a duty, to assist the Legislature and this Review Committee. I speak today for myself and for my Department, not personally, but as the State's highest law enforcement officer. Terry Farley, as Director of the Division of Criminal Justice, shares my views. I set the record straight on this point so that we can ;put distracting and unreasonable aspersions aside and do our jobs.

The Legislature established the SCI, an independent investigative body, to ensure the integrity of and to enhance public confidence in the criminal justice system and in government in general. No one can doubt the importance of these goals. To quote advice from one of our local police manuals, "The success of government is largely measured by the degree of support and cooperation it receives from the people of the community which it serves." It is of paramount importance that we secure the confidence, respect, and approbation of the public. The cultivation of such desirable attitudes is dependent upon proper performance of duty by all member of government.

If the SCI, the independent watchdog envisioned by the Forsythe Commission, serves these goals, it should be continued. It is important to remember, however, that the watchdog, while independent, is a part of government. The proper performance of this agency is at least as critical to public confidence in government as is the proper conduct of those it investigates.

For that reason, I suggest that this Committee ask whether this watchdog is operating as envisioned by and within the bounds set by the Legislature and the Supreme Court of this State....

This Committee has asked whether SCI procedures are adequate to protect individuals named in SCI reports. The Committee has been advised that the Code of Fair Procedure incorporated in the SCI statute in 1979 is followed and affords ample protection.

I think there is a more fundamental question this Committee must ask: Does the SCI statute, as written and as construed by the New Jersey Supreme Court, authorize public censure or allegations against individuals? The statute does the following: It directs the SCI to: "Make an annual report to the Governor and Legislature, or either thereof, as it shall deem advisable or as shall be required by the Governor or by concurrent resolution of the Legislature."

It further directs the SCI: "By such means and to such extent as it shall deem appropriate to keep the public informed as to the operations of organized crime, problems of criminal law enforcement in this State, and other activities of the Commission."...

The words of Chief Justice Weintraub writing for a unanimous Supreme Court in its first decision addressing the constitutionality of the SCI are instructive: "It is not the SCI's mission or role to decide whether an individual has committed a crime and to publicize the verdict. The purpose of the SCI is to find facts which may subsequently be used as the basis for legislative and executive action. The statute does not require the SCI to make and publicize findings with respect to the guilt of individuals."...

In recent years, the SCI has issued reports that clearly suggest specific individuals are guilty of criminal acts. Again, I believe this practice was not what Justice Weintraub had in

mind when he said, "The role of the SCI is not accusatory, and the rights accorded individuals concerned are appropriate and adequate in light of the agency's mission and power."

An official named in a presentment must be provided with a copy of the presentment and given 10 days notice to challenge his censure prior to publication of the presentment. A person named in a SCI report has no analogous statutory right....

A presentment cannot be released if it appears that a crime has been committed for which an indictment may be had. Such presentments must be returned to the grand jury with instructions to indict or to no bill. No analogous statutory restriction applies to SCI reports.

Prosecutors have qualified immunity for investigated activities. Members and staff of the SCI have absolute immunity. The differences between the protections afforded persons named in a presentment and persons named in SCI reports are stark, assuming that the Legislature even intended to authorize SCI reports that censure individuals or suggest that individuals are guilty of criminal wrongdoing...

In determining whether reform is needed, I suggest that the Committee carefully review this issue so as to ensure that the SCI does not violate concepts of fundamental fairness articulated in Doe v. Poritz...

Let me make this clear: Without consultation, the SCI has released a public report that names individuals in connection with specific alleged criminal activity that has been referred tomy office...The problems that follow from this practice are best explained by illustration from the SCI's 1994 report on Marlboro Psychiatric Hospital...In the Marlboro report, an employee of the hospital is fairly obviously charged with theft of hospital property. The accusation is made by carefully worded implication, rather than by direct charge, but it is an accusation nonetheless. Upon investigation, my staff learned

that the implied charge was included in the report, despite the fact that the employee has provided the SCI with receipts demonstrating that he had purchased the property. The published repot does not even refer to the receipts....An alleged theft by a public employee was widely publicized, creating or reenforcing the notion that public servants are corrupt and their supervisors inept or indifferent. A public investigation of theft by a public servant was not pursued in a criminal prosecution, suggesting that the criminal justice system is corrupt, inept, or indifferent....

There can be problems even when SCI reports do not name individuals. For example, when a report is published solely to turn the spotlight on a problem. The SCI report "Criminal Street Gangs" provides an example. This report, which was widely publicized, does not accurately portray the problem it spotlight. The Division of State Police advises me that 140 of the 717 street gangs listed in the appendix of the SCI report do not fit even the broad definition of "gang" employed by the SCI. The Commission's definition requires delinquent or criminal activity, and the appendix to the report indicated that no criminal activity was reported for 140 of the 717 gangs... Overstatement not only causes undue public alarm, but has the potential to undermine public confidence in law enforcement.

P. 18.

Attorney General Poritz: I would never say that the Attorney General, whether we are talking about a State Attorney General or the Attorney General of the United States, should be immune to investigation by an outside agency. I think every one of us must be able to be reviewed, looked into, including the watchdog itself.

Mr. Edwards: The grand jury presentment process creates a separation of powers question for me and for, I think ultimately, this panel as to our ability to recommend to the

Legislature and the Governor that a similar process, perhaps, be established using the courts as the vehicle to do that, without the courts' acquiescence to that particular issue. I daresay that the Supreme Court and the Chief Justice would aggressively object to a piece of legislation that would mandate a judge of the Superior Court to a similar review of a SCI report as they would a grand jury presentment that has other than indictment consequences to it. Am I accurate in that assumption.

Attorney General Potirz: Yes....That does not mean that there might not be some other way to afford that protection...There are many other models, but I remain concerned...

p. 20.

Mr. Dunn: Thank you, Chairman. General, I feel somewhat inadequate to quiz or interrogate or ask questions of the Attorney General... Your language, the content of your presentation, flowed as crystal clear as the beautiful waters of Ireland, which I just had the good fortune of visiting a few days back...However, despite the beauty and the rhythm and the flow of the words, I couldn't help but interpret your remarks as really throwing a zinger into the State Commission of Investigation. You really whacked them with a whammy. You really matter how you interpret the words, it sounds to me like you are an advocate of getting rid of the SCI...However, I can't help but feel, based on a lot of editorials I read from time to time in the newspapers, that there is a perception in the minds of most citizens of New Jersey that the SCI does more to root our evil than the Attorney General's office does, or some other agencies such as county prosecutors, and whatnot. There is a perception that county prosecutors' offices are all filled with politicians appointed by the Governor, but yet who had to have the approval of State Senators, and that sort. Now I forget how long you have been serving as the Attorney General.

Attorney General Poritz: Not quite two years...

Mr. Dunn: Whenever I read of an investigation, it is either from the U.S. Attorney's Office or some other agency outside the State of New Jersey. I do not read too much about the Attorney General's Office delving into official corruption in the State of New Jersey. I just feel that the general public expects more from the Attorney General's office, that it do more about what a lot of us know to be an abundance of political corruption in the State of New Jersey.

Assistant Attorney General Bozza:...We have a very active Corruption Investigation and Prosecution Program. It has been present in the Division of Criminal Justice for almost the entire history of the Division of Criminal Justice. One of the changes made under Director Farley was to add more resources to it...

Attorney General Poritz: Let me add that there have been fairly recent indictments handed down in Newark that were3 joint investigations between the Division of Criminal Justice and the U. S. Attorney. One of the things that has happened in the last not quite two years that I have been in office is that Faith Hochberg and I have cooperated and worked together, and the Division of Criminal Justice has worked with the U. S. Attorney.

P. 26.

Mr. Dunn: New Jersey is far from being the cleanest State in the entire republic. The public is genuinely concerned about rooting out official corruption. It bothers me when I get a letter from the New Jersey State League of Municipalities which sort of echoes some of your comments, too, but when you read it – Here you have the organization that speaks for about 700 towns in the State of New Jersey – if I interpret it correctly – telling us to get rid of the SCI.. Now, when you get 700 mayors and 700 governing bodies and thousands of appointed and elected officials who belong to this organization

telling you to get rid of the SCI, I can't help but get the impression that some very evil force might be behind all this new move to eliminate the SCI.

p. 26.

Attorney General Poritz: I don't think we can presume that of those 500-plus municipalities that the motive here is that they don't want someone looking at official corruption....

Assistant Attorney General Bozza: There is no policy or formal procedure with regard to public pronouncements, but we do evaluate it on a case-by-case basis. When the public has come to learn of an investigation, we have, on occasion, announced that an investigation has been closed and no charges have been brought. There was insufficient evidence that would warrant any criminal charges being the result of not being (indiscernible), but the investigation has not uncovered sufficient evidence to warrant criminal charges.

Doe v. Poritz, 283 N.J. Super. 372, 661 A. 2d 1335 (N.J. Super. L. 1995), [John Doe, (a fictitious name) individually and on behalf of all others similarly situated, Plaintiff, v. Deborah Poritz, Attorney General of the State of New Jersey, Defendant.] Superior Court of New Jersey, Law Division, Burlington County. Decided Feb. 22, 1995. "Convicted sex offender filed action seeking to enjoin enforcement of sex offender registration and community notification statutes and Attorney General's implementation guidelines. The Superior Court, Law Division, Burlington County, Wells, A.J.S.C., held that : (1) registration and community notification was not punishment for purposes of challenges under ex post facto, bills of attainder, cruel and unusual punishment, and double jeopardy clauses; (2) collateral burdens imposed by registration and community notification did not violate terms of offender's original plea agreement; (3) offender's right to privacy was not violated by registration and notification; (4)

registration and notification statutes did not violate right to equal protection even though Legislature had not chosen to address recidivism among other types of offenders; (5) notification to broader elements of community than law enforcement implicated sufficiently significant liberty interests to require prior in camera judicial hearing; and (6) Attorney General's guidelines were invalid for failure to comply with rule-making procedures under Administrative Procedures Act.

Ordered accordingly.

Affirmed as modified, 142 N.J. 1, 662 A.2d 367

Supreme Court of New Jersey
John Doe v. Poritz, 142 N.J. 1, 662 A.2d 367
Stein, J., Dissenting. At page 111.

The Court opinion carefully explains the considerations and events that induced the Legislature to enact and the Governor to sign the Registration Law, L.1994, c. 133 (codified at N.J.S.A. 2C:7-1 to -5), and the Community Notification law, L.1994, c. 128, (codified at N.J.S.A. 2C:7-6 to -11), those statutes being commonly known as "Megan's Law." A federal statute, enacted as part of the Violent Crime Control and law Enforcement Act of 1994, Pub.L. No. 103-322. Encouraged states to adopt mandatory registration requirements for persons convicted of sexually violent offenses or certain prescribed offenses against minors. 42 U.S.C.A. § 14071(a)(1)(A). The tragic murder of Megan Kanka prompted widespread public concern about the danger posed by released convicted sex offenders. The Legislature responded swiftly, enacting the statutes at issue in this appeal....

The Community Notification Law, combined with the Attorney General's Guidelines, authorizes the dissemination, to prescribed organizations and members of the community likely to encounter a sex offender, of information concerning

an offender, including a photograph, a description of the underlying offense, residence address, place of employment, and vehicle-plate number. The extent of notification is determined by a three-tier classification procedure...

The Court holds that the Registration and Community Notification laws no not violate the Ex Post Facto, Double Jeopardy, or Cruel and Unusual Punishment Clauses of either the Federal or State Constitution. Substantially enhancing the protections afforded by the statutes as enacted, the Court properly concludes that the impact of the statutes on those subject to Tier Two and Three notification sufficiently implicates liberty interest to mandate the availability of due-process safeguards. The Court accordingly conditions its decision to sustain the constitutionality of the statutes on the requirement of judicial review of a prosecutor's decision to impose Tier Two and Tier Three notification, that judicial review extending to the means of implementing notification selected by the prosecutor. I am in full agreement with that aspect of the Court's decision.
P. 113.

Because the Community Notification Law "makes more burdensome the punishment for a crime, after its commission," I conclude that that law, despite its understandable objectives, violates the constitutional prohibition against ex post facto laws.
P. 125. On December 27, 1994, residents of Phillipsburg were informed of the whereabouts of a recently released sex offender...On January 8, 1995, "[a] father and son broke into [that] Phillipsburg row house *** looking for [the] released child molester who had been identified by the police." ...Once inside, the two "attacked a man they thought was a rapist."... "But the two ended up attacking the wrong man..." allegedly assaulting a forty-one-year old truck driver who was also staying in the house. The severity of the beating required the

man to be hospitalized...

Another example also involves "one of the first people to fall under the law's strictures."...On January 1, 1995, Carlos Diaz was released to reside in Passaic with his mother...Although the preliminary injunction delayed law-enforcement officials from implementing the provisions of Megan's Law, the Guardian Angels, a New York-based civilian group, organized a community protest outside the residence of Diaz' mother. "And up and down the streets, Guardian Angels founder Curtis Silwa and his men walked yesterday, handing out fliers with a large photo of Diaz, the warning 'BEWARE' in big block letters and a phone number to call if Diaz [was] spotted."..."Hundreds of***students streamed down [the street]*** clutching pictures of convicted rapist Carlos Diaz, handed to them by Guardian Angels who descended on the city to rally in support of Megan's Law."
P. 136

In Austin, supra, [Austin v. United States, 509 U.S. ___,113 S. Ct. 2801, 125 L.Ed.2d 488 (1993)decided four years after Halper, the Court was required to determine whether civil forfeiture of Austin's mobile home and auto body shop that had been used in drug transactions, constituted punishment and thereby violated the Excessive Fines Clause of the Eighth Amendment. ... Consistent with Halper, the Court relied primarily on historical and functional analysis to determine whether the statutes authorizing imposed punishment.
P. 140.

Indeed, humiliation and stigma were not simply component parts of early punishment, but at times were the only element of punishment.
P. 146

The Constitution's prohibition against ex post facto laws reflects an enduring value that transcends the most pressing concerns of this or any day and age. Today, our concern is

with prior sex offenders; in the 1950's the legislative concern focused on Communists; and in the 1860's Congress was determined to punish legislatively those who had supported the Confederacy.

Future legislatures will doubtlessly find reasons to deal harshly with other groups that pose an apparent threat to the public safety.

P. 147

For modification and affirmance - Chief Justice WILENZ, and justices HANDLER, POLLOCK, O'HERN, GARIBALDI, and COLEMAN - 6.

For reversal -Justice Stein

Doe v. Poritz, A Constitutional Yield, 32 California Western Law Review 331 (1996)

page 331.

"On July 29, 1994, in Hamilton Township, New Jersey, a seven-year-old girl named Megan Kanka was lured into a neighbor's house by a man who offered to show her his new dog. Megan's neighbor pulled her into his bedroom, strangled her with a belt and then sexually assaulted her. The neighbor was Jesse Timmendequas, a twice-convicted sex offender who had served six years in prison for a previous attempted assault on a child.

"Publicity about the crime provoked public outrage stemming from the fact that someone with a background of sex crimes had lived in the community anonymously. The New Jersey Legislature responded to the outcry by approving a controversial state statute requiring every convicted sex offender to register with the police after release from prison. ["The bill was enacted into law just three months after Megan's slaying. Commentators say Megan's Law was the product of 'politics and passion.'...Apparently, lawmakers

ignored witnesses who raised questions regarding the law. Id. Assembly members did not hold committee meetings- passing Megan's law was declared a legislative emergency. Id. - Michelle Ruess, Second Thoughts About Megan's law Concern Growing Over Ripple Effects, Rec. N.N.J., Feb. 19, 1996, at A1.] Known as Megan's Law, the statute also mandates community notification regarding the whereabouts of certain convicted sex offenders, depending upon the seriousness of their offense and the likelihood of recidivism. [See N.J. Stat. Ann. § 2C:7-6 (West 1995). Megan's law sets forth a three-tiered scheme by which the sex offender's risk of reoffense is ranked. Different levels of community notification are provided based upon the sex offender's rating. ... A recidivist is defined as a habitual criminal. Black's Law Dictionary 1269 (6th ed. 1990)

"Two months after the enactment of Megan's Law, a New Jersey man, using the pseudonym John doe, challenged the constitutionality of the statute based upon its retroactive application. [Doe v. Poritz, 661 A.2d 1335 (N.J.Super. 1995), aff'd 662 A.2d. 367 (N.J. 1995). Doe claimed the sex offender registration and notification statutes violate several constitutional provisions, including protection from ex post facto laws, bills of attainder, double jeopardy, cruel and unusual punishment, and privacy infringement. In a 6-1 decision, the New Jersey Supreme Court held that the registration and community notification laws did not violate any of the constitutional clauses that Doe cited. The court did, however, require that a process of judicial review be added to the statute's guidelines, so as to promote judicial fairness and due process for offenders subject to public notification. With this addition, the court held the legislation would be valid and effective immediately upon all convicted sex offenders."

At p. 333. "The plaintiff John Doe was indicted and charged in June of 1985 with sexual assault for molesting two teenage

boys. Doe entered into a plea agreement for a term of imprisonment not to exceed 15 years. In September of 1985, Doe was examined by a psychologist at the Adult Diagnostic and Treatment Center in Avenel, New Jersey (hereinafter ADTC). Center staff determined that Doe's conduct was characterized by a pattern of repetitive and compulsive behavior. In February 1986, Doe was sentenced to a ten-year term of imprisonment at ADTC with a three-year period of parole ineligibility. After Doe allegedly participated in all aspects of the treatment program offered to him at ADTC, his primary therapist recommended he be considered for parole. After interviewing Doe in the fall of 1991, the review board concluded doe 'was capably of making an acceptable social adjustment' and, therefore, recommended doe's release on supervised parole.

"Doe contended that he hade complied with all the provisions of his parole release, including participation in aftercare psychological treatment. He now rents an apartment and is employed...

at. p. 334 "In October 1995, Doe appealed to the United States Supreme Court, however, the justices declined to hear his case. [Rocco Committee. War: Victims v. Defendants: Megan's Law Ruling Nears in 3rd Circuit, N.J. Law, Jan. 29, 1996, at 1.]

Commentators believe the Court rejected his case due to the pending appeal of Artway v. Attorney General of New Jersey [876 F.Supp. 666 (D.N.J. 1995)], a similar case involving a sex-offender who was convicted before Megan's Law was enacted. [Michelle Ruess, Megan's Law Goes to Court, Rec., Oct. 25, 1995, at A1.] In Artway, the United States District Court in New Jersey held the notification provision of Megan's Law was unconstitutional when applied retroactively to sex-offenders."

P. 351

IV. WAS PORITZ CORRECTLY DECIDED?

"The problems enumerated by the Artway and E.B. courts have been documented in several incidents where released offenders have found it very difficult to lead normal lives once the public received notification of their reintegration into society. Offenders who have been targeted after notification have been driven from communities or otherwise harassed.

"In July of 1993, **the home of a convicted child rapist was burned to the ground** after his neighbors were warned of his release from prison. [Lisa Anderson, Demand Grows to ID Molesters, States Weigh Children's Safety Versus Offender's Rights, Chi. Trib., Aug. 15, 1994, at 1.] Furthermore, a survey conducted by Washington State Institute for Public Policy at Evergreen State College revealed that over a three-year period, fourteen notification-related incidents took place in Washington. ["Since Washington activated community notification, vigilante incidents have included arson, death threats, slashed tires, and loss of employment."] The incidents ranged from situations where offenders and sometimes their families, received taunts, to a case in which one offender was punched in the nose when he opened his door.

"More recently, in early 1995, a father and his son broke into a Phillipsburg, New Jersey home looking for a released child molester who had been identified by county police. [John Ritter, Critics Say Law's Behind Surge in Vigilantism, USA Today, Jan. 12, 1995, at A7.] Law-Enforcement authorities had provided community residents with the address where the offender was to reside and distributed photographs of him. The father and son assaulted the wrong individual. Their victim was a forty-one-year-old truck driver who had been staying at the home of the released sex offender. The beating was so severe the victim had to be hospitalized.

page 353. "While the remedy may seem simple to the Poritz court, due to the public harassment and vigilantism that had taken place, the registration and notification statutes have

been facing legal challenges throughout the country. Registration statutes have routinely been upheld in Alaska, Arizona, Illinois, New Hampshire, and Washington. However, a California court struck down a similar registration statute because it applied to a [p. 354] minor category of sex offenders. [In re Reed, 663 P.2d 216, 222 (Cal. 1983). Community notification statutes have also been struck down as unconstitutional in Louisiana [See State v. Babin, 884 F. Supp. 1372 (D. Alaska, 1994)] and Alaska [See Rowe v. Burton, 884 F. Supp. 1372 (D. Alaska, 1994)].

Page 354. "Forcing people to move from state to state in fear of their lives is punishment of a type that was not applicable to sex offenders who were convicted before Megan's Law was enacted. The United States Supreme Court has held that an increase in punishment regardless of its extent is ex post facto and therefore unconstitutional. [Lindsey v. Washington, 301 U.S. 397, 401 (1937)].

"Applied to John Doe in the Poritz case, the sex offender notification law should be declared an increase in punishment because Doe will likely be subject to constant community harassment, endangered with the possibility of vigilante attacks, and burdened with the probability of losing his current job and remaining unemployable. This will all be due to branding and stigma that will attach to Doe once the public is informed that he is a released sex offender.

Meeting of The Joint Legislative Task Force to Study the Adult Diagnostic and Treatment Center,
Location: Legislative Office Building, Committee Room 7, Trenton, New Jersey. Date: March 15, 1995. 10:00 A.M.
Members of the Task Force Present: Senators Bassano, Chairman, Inverso, Matheussen, Girgenti, and Edward O'Conner Jr.; General Assemblymen: Mikulak, Chairman,

Joseph Malone III, Holzapfel, Shirley Turner, and **Assemblyman Charles "Ken" Zisa.**

p. 28. Assemblyman Zisa: "Well, I'm not sure that the topic is as important as what happened. The topic happened to be the treatment program.

"Let me try to clarify where I'm going with this. What I'm saying is that the administration appeared here. We depend on them to run the facility; we depend on them to report to us what is going on. I have no reason to believe that they weren't truthful.

"We then have employees, who possibly are disgruntled employees, who might be inclined to misrepresent the facts. If that is the case, then I would expect action to be taken. If, on the other hand, they are not disgruntled employees, if, on the other hand, they are persons who are very concerned and felt that it was necessary to appear here, in their perception at the risk of their jobs - -whether that's a fact or not - - and to be truthful in exposing that the administration purposely misrepresented the facts, that would be a serious problem. Either way, we have a serious problem.

"I don't think the topic matters as much as the fact that allegations were made before this Task Force that somebody purposely lied to us. What I would like to see is - - I'll suggest this and if I'm out of line, the Chairman can tell me - - an investigation conducted by you or your designee to determine who didn't tell the truth before this Task Force.

Page 29.

"You will have this available to you. You can look up the subject matter. Would like to see you conduct an investigation. I would like you to take the appropriate action based on the fact that someone, who is employed by the State of New Jersey, appeared before a legislative task force and

purposely misrepresented the facts, if that happened. It had to happen because there are two different versions.

"This is not a question of who thinks the treatment program is better. This is a question of a statement being made that facts were purposely misrepresented and that people purposely were untruthful to the Task Force, not which was a better treatment program. That is not the point.

"So what I am asking is for you to investigate it, as I say, as a separate issue, to get back to us with some type of report - - some type of communication - - which would indicate to us what you have learned and what action you plan to take on it. That is what I am asking.

Page 30. Commissioner Fauver: "Yes. But I find it hard to believe that Bill Plantier would not be honest on - - He was honest in saying it was the Commissioner's responsibility to do something, and he's still here. He didn't get fired. (laughter))

Assemblyman Mikulak: "I found it hard to believe that Bill Pantier didn't tell us when he was changing the therapy, Commissioner, so - -"

Assemblyman Zisa: "I am not suggesting that at all. I am saying that if, in fact, **it is a case of disgruntled employees trying to bring down their administration**, I want to know about that...That has to be dealt with, because somebody who would purposely malign the reputation of a State facility is a serious problem for the State. So, whichever the case, I would hope - -...This is the transcript of the February 1, 1995 meeting.-"

Page 31. Senator Girgenti: "Commissioner, just a couple of questions. I want to get clarification on some of the things you said, and also some input.

"Number one: During our discussions through the various meetings we've had one thing that has been discussed and talked about, the possibility of maybe not having Avenel as it

presently exists and putting people back into the system the way it was in the past, in the different prisons - - having that kind of a situation.

"Is that an option that you have thought of, or do you think the direction is to continue Avenel as it presently exists and not move back? What purpose is served by moving them back into the prison system? Have you ever though of that?

Commissioner Fauver: "I think the Avenel concept is still the way to go. I think that moving them back into the system would not be. There is always - - not always - - there is a debate in other states and there has been here; where should this even be? Should it be in Corrections? Should it be in a Human Services type of setting?

"It was under mental Health and Hospitals in the '70's before it was changed over to Corrections. One of the reasons was escapes from hospitals and things like that - - not major reasons. I think the thinking at the time was, as I said, tied into this therapeutic community idea of all likes being together, living together, not being able to get over on each other in therapy, and stuff like that.

"I think, as I said earlier, we can't exclusively do that though. I think you have to sort out the long-term guys. They go to regular prison first and then come at the end. I think we also have an obligation then to provide some kind of treatment, even if it's just a preliminary type of thing, at those institutions.

Appendix Page 9.

New Jersey Psychiatric Association, Partridge Drive, Bridgewater, New Jersey 08807-1863, (908) 685-0650, Fax (908) 725-8610.

Position Statement Treatment Facility for Sex Offenders

"As representatives of the New Jersey Psychiatric Association and the New Jersey Psychological Association, we would like to make this joint statement regarding the general issue of

treatment of sex offenders and the particular issue of the future of the Adult Diagnostic and Treatment Center at Avenel.

"The professional literature demonstrates that treatment for sex offenders, if properly implemented, can be effective. A recent thorough review article (Marshall 1991), cites considerable evidence that relapse rates for sex offenders can be lowered by effective and comprehensive treatment. The efficacy rates for treatment for sex offenders in some instances compares with the efficacy of the treatment for other mental disorders.

"We, therefore, strongly support the proposal that New Jersey should maintain a sophisticated and well-supported sex offender treatment program....

The Record, December 19, 2000. Page L-1

Assemblyman Zisa will seek sheriff's job. Democrats pledge to find black replacement. By Hugh R. Morley, Staff Writer

"Hackensack Police Chief and Assemblyman Charles "Ken" Zisa formally announced Monday that he will run for Bergen County sheriff, prompting top Democrats to pledge they will try to replace him in the Legislature with an African-American.

"County party Chairman Joseph Ferriero told more than 100 Democrats assembled for a news conference in Hackensack that he would seek out an African-American to run for Zisa's 37th District Assembly seat next year.

"Zisa, whose term expires in December 2001, said he will not seek the nomination to the Assembly seat. De also said he will step down as police chief if elected as sheriff.

Public hearing before Senate Judiciary Committee on Wire Tapping, Held: May 21, 1982, Room 144, State House Annex

Trenton, New Jersey.

[page 1] Senator John F. Russo (Chairman): The Judiciary Committee will resume its meeting. Mr. Attorney General, on behalf of the Committee, we thank you very much for appearing today. I know you had to revise your schedule to appear today - you had mentioned that to me - but, this is an important issue and an important matter to this Committee, and I am sure to the Legislature in general. We are very grateful that you took the time.

I think you know all of the members of the Committee. We know the fellow who is sitting on your left, Colonel Pagano, but would you introduce the rest of the people, that are with you today?

Attorney General Irwin I. Kimmelman: I have with me today Lieutenant Colonel Justin Dintino of the Intelligence Section.

Senator Russo: Hit your button, General. When that light is on, that means you are -

Attorney General Kimmelman: I'm not used to staged screenings, only in the court room. I have with me today Lieutenant Colonel Justin Dintino, who is head of the Intelligence Section of State Police; Michael Bozza, Deputy Attorney General who is actually in charge of processing wire tap investigations; and , Edward McGill, Special Assistant to the Attorney General, who is a legislative liaison for me.

Senator Russo: Thank you, General. Members of the Committee, let me assure you that the room has been thoroughly checked over; there are no bugs in it. (laughter) You may feel free to ask any questions. In addition, for the Attorney General's assurance that the room is not bugged, we checked the room ourselves.

Just by way of a preliminary statement as to why we are here, let me say - in sort of an emphatic manner, to make a point - that some of us - Senator Vreeland and myself, and I think Senator Orechio - have served on this Committee for the

nine years that we have been in the Legislature. We have had to consider the wire tap law during those nine years, each time it came up. One of the prime concerns of the Judiciary Committee at its hearings during that period of time, has been the concern about an abuse of such a tremendous tool. There was extensive questioning, as I recall, by certain members of the Committee, and then on the floor of the Senate. Each time we received assurances from Colonel Pagano, from Attorney General Hyland, Attorney General Degnan, or whoever was in the position at the time, regarding this law. We recognize that although it is an important and effective tool for law enforcement, it carries with it a tremendous, delicate concern for Constitutional Rights, the Right to Privacy, and so forth. It seemed to be working all fight - at least we felt it was – and then, of course, the Washington news story came out a few weeks ago, that gave us a national perspective on the issue that frankly I don't recall we had before. That referred to the fact that in New Jersey, we led the nation with 139 wire taps of telephones during that year, or, 23% of all wire taps approved in the United States during that year. I have to tell you, General, and Colonel Pagano, speaking individually, that is a shocking statistic to me. That doesn't necessarily mean that here is any wrongful use of the law, but, it does seem to indicate that we ought to be looking into it. We ought to give you a forum too present justification for that. I think I would be less that honest if I didn't say, at least for myself and perhaps other member of the committee, that we start with a bit of a burden, demonstrating that this "somewhat" shocking statistic is justified. Sooner or later we are going to be considering the renewal of this law. Rather.than have to consider it "under the gun" at the time, with a lot of pressure, we can start now.

We will put the concerns of the members of the public to rest, that **New Jersey is not becoming a Nazi state** of some

sort, or, by perhaps doing something bout a possible abuse. I don't think there is any member of the Committee who has prejudged this, but we are concerned and we want to hear the justification for this "somewhat" shocking statistic.

Is there any comment from any members of the Committee at this point, before we hear from the attorney General and State Police? (No response) If not, I will turn the ball over to you, General, and let you take it from there.

Attorney General Kimmelman: Senator, I appreciate your remarks, especially with respect to the fact that you haven't prejudge the issue, but, nevertheless, you have put the burden of proof on us. I will accept that as not a prejudgment – As a matter of act, we are very comfortable with having the burden of proof put on us and carrying that burden.

I took note of your initial observation of the fact that New Jersey leads the nation with some 139 or 139 wire taps, which seemed shocking to you. I can understand that to a person, without being privy to the facts, the statistic may well be shocking, especially if they have a predisposition against wire tapping. You must recognize that wire tapping, to the limited extent that it takes place, is an invasion of privacy. We have a principle – a constitutional principle – in this country, that there be no invasion of privacy. The law does permit privacy to be invaded for very limited circumstances, and, in the instance of wire tapping, that is one of them.

I will get to your pointy and perhaps spell out why one might think the total number of authorized wire taps in this state is a shocking figure. Let me say to you, Senator, and members of your Committee, that the State of New Jersey – I have said this publicly before – takes unjustifiable criticism for, as some people say, "a bum wrap", when the notion is spread around that this state is widespread with organized crime, with corrupt politicians, and with narcotic abuse. That is not so, although, there are instances of organized crime,

corrupt politicians, and narcotic abuse in this State, but, certainly not more so than in other comparable areas.

The important feature which distinguished new Jersey from other jurisdictions is that we do something more than lip service in ferreting out organized crime, corrupt politicians, narcotic abuse, and, the like. We do that in a way which indicates that New Jersey is at the head of the list, nationally, in the number of court authorized wire taps. These wire taps are directed in practically all instances towards illegal gambling and narcotic offenses which are the backbone - the economic backbone - for organized crime.

The wire taps in New Jersey bear fruit. When they do, instances of narcotic abuse and of illegal gaming come to light. When these instances come to light, the spotlight falls upon New Jersey, and then, without a knowing justification, the notion is spread that New Jersey is wide-spread with organized crime, corruption, and so forth. But, the fact of the matter is, we do more than other states in trying to ferret this out.

You are correctly concerned, Senator and members of the committee, with ensuring that these court authorized wire taps, which do constitute a limited invasion of privacy, are not subject to abuse. An application for a court authorized wire tap receives at least five different sets of scrutiny before it gets to my desk, and when it gets to my desk, it receives my scrutiny before I put my signature on it. Then it goes to court, and the process begins all over again, and the courts scrutinize the reasons why this application is sought and why it is not practical for the law enforcement officials to resort to any other alternative means of [page 3] ferreting out evidence of crime. Only when the court is satisfied does the court sign the authorization for the wire tap.

There is another backup, Senator, and the backup occurs in the instance of defense counsel. Once an indictment takes

place, defense counsel invariably files motions to suppress wire tap evidence. With respect to the wire taps secured by court authorization from the Attorney General's office, there has been non instance where a court has ordered a suppression because the process was abused, or because the evidence was otherwise illegally obtained. So, that is the point, Senator: Number one, I review it; number two, a judge reviews it; and, number three, on motions for a suppression, we are sustained every time.

A major amount of wire tap requests come through the prosecutors' offices in the state. **Thirty-three requests came from our office, and about 106 or so came from the prosecutors' offices.** With respect to the prosecutors, we have no direct control over their application for the wire tap. Again, there are specific judges assigned throughout the state, in various vicinages where the prosecutor must go to secure court approval. Also, there again the prosecutors must justify his wire tap evidence on the motion brought by defense counsel to suppress. The prosecutors in this state, to my knowledge, have been uniformly successful, except in one or two minor instances in sustaining their wire tap evidence against motions to suppress.

We are talking about what happened, Senator, in 1981, and prior years, before I became Attorney General. These statistics are those which have been made available to me. What I have said is something of what I feel, especially with respect to the fact that the criticism against this state as being a "hot bed" of political corruption, and organized crime, is really unjustified. Those are my own comments, as a result of my observations, as to what I have seen in the brief time I have been in office.

During my term as Attorney General, which will continue for the next three and a half years, I expect that my office will be as vigilant as it was during the term of my predecessors insofar as attempting to ferret out these instances of narcotic

abuse, illegal gambling, all of which contribute to organized crime. I therefore suspect – although I don't have the figures yet, and neither does anyone for the year 1982 – that the Office of the Attorney General will continue in its requests, whenever necessary, to a court for wire tap approval.

With respect to any specific facts you may have, Senator, of and members of the Committee, I have with me, the Director of our Criminal Justice Division, Edwin Steir, and, the Superintendant of the State Police, Colonel Pagano I am sure they both can furnish your Committee with much more detailed information than can I.

Senator Russo: Thank you, Mr. Kimmelman. Let me address a question to you, and that I am sure you will have to refer this to your people for the answer. You pointed out that one of the safeguards of this system is that a judge had to review and approve a wire tap application after you do. The last time this law came up for renewal, one of the member of the Committee asked the same question – I would be interested in seeing what its updated information is – of Mr. Steir at the time, or maybe or Colonel Pagano: How many applications have you made that the judges rejected? The answer was none. Every application you made was approved, which either tells us one of two things: One, you never make one unless it had total merit, with careful screening by the Attorney General, and I think the Attorney General at that time, pointed out that very thing. He said, "Look, the application doesn't get to judges until I have approved it." Maybe that is the answer. The other is, busy judges, when prosecutors or the Attorney General come before them oftentimes – some judges, anyway – give such a dignity to the office that they [page 4] don't respect these applications. But, that was a source of concern, and I think you remember that, Ed, and Colonel Pagano. So, I would be interested to know

what the updated record is. Has there been any rejected applications at that time? Anyone from your staff can help.
Attorney General Kimmelman: There have been no rejections since that time, Senator, because whatever General Degnan or General Zazzali told you, remains. The Attorney General does review these applications personally. I can say to you that deputies from Ed Steir's division follow me around the state. I was in Morris County attending some sort of function, and lo and behold, there are two fellows there. I forget the name of the hotel where this happened. It was in Convent Station. But, there I was, and two deputies came down and collared me at the table, and I sat for another half hour going over whatever papers had to be gone over before I affixed my signature. Let me say one further thing, Senator: I have a list here - or at least I had one; I can't put m finger on it right now - of the judges who have been designated by the Supreme Court to sign the wire tap authorizations. There is Judge Blake in Essex county; I know of Judge Demos, who handles the Middlesex County and Somerset area; I know of Judge Lenox, who handles the applications in Mercer County and in this area. The other judges who handled the other counties last year were: Judge Arthur Simpson in South Jersey. He was Administrative Director of the Courts, and he is now the Assignment Judge of Bergen County; and, Judge Grucio in Atlantic County.

Senator, I have served on the bench with each one of these judges. I know them personally. I know the diligent job that every one of them does. I know what I did when I was a judge. When papers were presented to me, I read them, I am sure these people do, more so, because of the importance of the application that is being made.
Senator Russo: Thank you, Mr. Kimmelman. One last question from mje at this time is: What is the record for 1982? How many are there, so far?

Attorney General Kimmelman: Senator, I think – I don't have the exact figures with me – to my recollection, I have signed at lest six or seven. Here we are, May 21st, we are five months into the year, and have had six or seven, which seems to be less than the rate last year. I am not purposely setting out to make the rate less than last year, but I think it is. It just happens that way.

Senator Vreeland; I just want to talk about the number 139 in New Jersey during 1981, and 160 n New York State. I am reading from this statement. I noticed that some of it is attributed to gambling in New Jersey – these wire taps. Does that have anything to do with gambling in Atlantic City? I don't know who would answer this. I know Ed Steir has always been with the Judiciary, every time we have discussed this, as the Chairman has said. Do we, in New Jersey, rank number one with crime? Is that why we have so many?

Attorney General Kimmelman: Senator, I think Mr. Steir will give you a specific answer. Let me try to respond to your general question, as to whether New Jersey ranks number one in crime. New Jersey doesn't rank number one in crime. You must understand where New Jersey is geographically located.

Senator Vreeland: I know.

Attorney General Kimmelman: We sit in the midst of the financial centers of this county - Philadelphia is on the one side, New York is on the other. Let's forget about the financial center on the west coast. But, you and I know – or at least I know, and I assume you know – that gambling and narcotic activities [page 5] go where the money is. The money happens to be here. People say New Jersey is a great state, it is a good place to live, it is a good place to work in, and we invite people to come to New Jersey because we have, square mile per square mile, probably more than any other state has to offer. Couples with that, we have the financial resources tin this state, that this kind of activity tends to be attracted to. That is

why we have evidence of it in this state; that is why we are a lot more vigilant than most other states in attempting to root it out. When we do root it out, that is why you hear about it and that is why we get the black eye.

The other states with a large number of authorized wire taps are New York and Florida. I don't have to go into along dissertation why New York and Florida are coupled with New Jersey in this particular area. New Jersey leads them because of the factors which I mentioned. Perhaps Mr. Steir can elucidate on my answer.

Senator Vreeland: If I might, Mr. Chairman – you mentioned that the crime goes where the money is. That is why I asked you about Atlantic City, because that is, I understand, where the money is.

Edwin Steir: Senator, specifically, none of these gambling investigations are related to casino gambling in Atlantic City.

Senator Vreeland: Right. That was my question.

Mr. Steir: However, I think it is fair to say that there were a certain number of illegal gambling investigations, using electronic surveillance, and a certain number of narcotics investigations, using electronic surveillance. That occurred in the Atlantic city region, as a result of the fact the people were attracted to that area because of casino gambling. I think that is something that we anticipated, it is something that we are guarding against, and we are trying to be vigilant to protect the public from The casino gambling in Atlantic City and the economic benefits that had been derived from it, carry with them a certain risk that they are going to attract criminal elements. We are very careful trying to protect it from that kind of intrusion.

Senator Vreeland: This is my last question, Ed. The fact that we are number one with wire taps – I am asking you or the Attorney General – would you attribute that to the fact that we

have gambling in New Jersey? New York doesn't have gambling.

Mr. Steir: No. My answer is based on the statistics for prior years. If you go all the way back to 1969, you will see that our percentage of electronic surveillance, nationally, has been pretty consistent. In fact, it dropped this year from 31% in1980 to 23% in 1981.

Attorney General Kimmelman: Senator, what I wanted to say was, on your specific point, next week will mark the fourth anniversary of casino gaming in the state of New Jersey - that is May 26th, or something like that. What we have here is – Mr. Steir has these figures in front of him – for the year 1977, which was the last full year prior to casino gaming, New Jersey had 150 court authorized wire taps, which is less than last year. At that point, we were 23.9% of the total in the country. This year we are 23.4%. Things haven't changed.

Senator Vreeland: I think that is very good. That answers my question. Thank you.

Senator Russo: Thank you, Senator Vreeland Senator O'Connor?

Senator O'Connor: Tank you, Mr. Chairman. General Kimmelman, you say that in your opinion, the wire tap investigations have worn through. You also say that they are primarily directed to gambling and narcotic activities. In my experience as an attorney, which also involved law enforcement experience as an [page 6] assistant prosecutor, I found that wire tap investigations are arrests usually result in the arrest of multiple defendants who get out on a plea, because of the people at the very top plea out. For the most part, regardless of the evidence, it seems that the majority of the people that are arrested as a result of wire tap investigations, will ride it out, wait it out, and go to trial. A very frustrating experience, from a prosecutorial standpoint –going back ten or more years ago – when you would go

through this process, and it would take perhaps two years to try someone, or it would take forever to actually go through the process of the trial, and even assuming a conviction, the person would only be sentenced to a minimal sentence - assuming you were dealing with lottery as opposed to gambling, or, rather bookmaking or sports gaming, which would require a mandatory state sentence at that time. The question is: If that is going to continue to be the focus -- that is to say, gambling investigations and narcotic investigations - is it worth it? Is the end result worth the drain on the court system and worth the amount of money that we are spending to come to that point?

Attorney General Kimmelamn: A simple answer from my pont of view is obviously yes, because with respect to reasons, we cannot relax our efforts. You just can't do it. To that extent, it is worth it. Mr. Steir can give you some figures which prove that.

Mr. Steir: Rather than doing it statistically, let me present it in this way: In the process of selecting a case in which the use of electronic surveillance is very complex, that goes on within the State Police and my office, our objective is not simply to arrest illegal gamblers, because we could do that from now until the cows come home and probably never make any dent in organized crime. Our objective is to try to select those situations in which you have an organized-crime-controlled gambling operation and attempt to disrupt the flow of cash to organized crime, by attempting to penetrate to the level at which organized crime figures are controlling the gambling operation. Not every one of them is successful There are some cases in which you end up with violators who are at a fairly low level in the operation. But, in many cases, many very significant cases that have been prosecuted in this state over the years, we have been able to penetrate very significant racketeers who have gone untouched up to that point, simply

because there has been no other route of attack. There has been no other way in which law enforcement has been able to gather enough evidence to build a case. **Gambling happens to be one avenue through which organized crime is very vulnerable to electronic surveillance investigation.**

So, if it is carefully selected, if it is carefully operated, and with a little bit of luck – as we always need in investigations – we can be very successful. So, when we see a defendant of that caliber coming along, we ask: Is it worth the expense? The only answer I can give to that is, in one of our cases that was prosecuted in Monmouth County about a year ago, which took a couple of years of investigation and about 20 of Colonel Pagano's best detectives for a long period of time, a reporter added up the total cost of that case to the state: it came to several million dollars. He asked the question, "Was it worth it?: When you looked at the caliber of the defendants in those cases people who had gone untouched before, people who had been involved in large-scale corruption over the years, people who had been responsible for murders in this state, people who had been responsible for extortion, narcotics traffic, and a number of the major violations, the answer is yes. How much is it worth to this state to tolerate that kind of activity? The answer I come back with is, this state had gotten its money's worth over the years, and I hope we can continue to do so.

PUBLIC HEARING BEFORE Senate Law and Public Safety Committee

- "To receive testimony on, and investigate the Electronic Monitoring/Home Confinement Program administered by the Department of Corrections, and the Intensive Supervision Program administer by the Administrative Office of the Courts.

Location: Freeholders' Meeting Room, Passaic County Admin. Building. Paterson, New Jersey
Date: April 21, 1992. 12:30 p.m.
MEMBER OF COMMITTEE PRESENT:
Senator Louis F. Kosco, Chairman
Senator John J. Matheussen, Vice-Chairman
Senator Bradford S. Smith
Senator John A. Girgenti

ALSO PRESENT:
Assemblyman Frank Catania, District 35

Page 29 et seq.
Senator Kosco: –I mean, Sheriff Jack Terhune, of Bergen County, to come forward. Welcome, Jack. Sheriff Jack Terhune, I think out of all the people we have had from the Bergen County jails– if my memory serves me correctly, you have only had two problems. I think it was?
SHERIFF JACK TERHUNE; That is correct, Mr. Chairman. I would like to introduce–
Senator Kosco: My question to you would be, why has your program been successful, and what have you done to make it that way?
Sheriff Terhune: Well, I would like to take credit for that, quite frankly, Mr. Chairman, but before I do I would like to introduce to the members of the Committee, Sergeant Debra Lennon, to my right, who is the Deputy Work Release Administrator and Coordinator of our Home Confinement Program in Bergen County.

A couple of things by way of introduction. I might,
Senator: Please, members of the Committee, be reminded that the inmates who are eligible for Home Confinement at the county level, are only those sentenced to a term of imprisonment of less than one year. Typically, those inmates

are sentenced for disorderly persons offenses, motor vehicle offenses, violations of domestic violence law, and the like.[p. 30]

The program in Bergen County has been in place since September of 1990, and to date we have placed 171 inmates into home confinement status. Of those 171, only two have violated the rules and regulations One was an inmate sentenced to confinement for failure to pay child support, who had an outstanding criminal matter and was removed because of it, unrelated to the child support matter. The second individual was incarcerated for a motor vehicle offense, and was arrested for a subsequent motor vehicle offense while in home custody.

The equipment we use in Bergen County is identical to that which was described previously by Commissioner Fauver. It is supplied by the same manufacturer. We do not buy it; we lease it on a daily basis from the company. We have other safeguards in place which I think might be of interest to the Committee.

For every inmate who is placed into **Home Confinement from the Bergen County Sheriff's Department**, certified letters are sent to the municipal police chief of the community in which the inmate is going to reside. A second certified letter is sent to the sheriff of the county in which the inmate is going to reside. A certified letter is sent to any employer where the inmate may be employed. If the employment is in a community in addition to, or different from the community in which the inmate is going to reside, a fourth certified letter is sent to that municipal police chief, notifying him or her that the inmate will be employed within their community. We also delineate the name of the place of employment, and the hours of work that they are permitted to be at that place of employment.

With regard to the bracelets, we have not had one instance of any tampering with the equipment. Our system is set up similarly, but somewhat different from that described by the commissioner. As I said, we used the same on-site equipment, in terms of the bracelet, the home received, and the [p. 31] monitor. We also, in addition to getting a hard copy of any activity which occurs for any particular inmate, have a beeper system. Any time there is any violation – For the Committee's benefit, there are 52 program violations in the system which would activate a notification of the monitoring officer. When such a notification is received a remote beeper is activated. Our officers carry these beepers 24 hours a day, seven days a week, and are aware of any violation, whether it be the AC power on or a malfunction of the equipment.

The officers then follow up with a phone call to determine if in fact, it is a violation, or whether there is a technical difficulty with the equipment, which, quite frankly, gentlemen, sometimes happens. If an inmate walks into a coffee table or leaves it emerged (sic) in a bathtub too long, sometimes you will get a technical violation of the equipment.

We respond immediately to any such notifications. We do not wait a period of time to investigate any alleged violations of the Home Confinement rules. Furthermore, in an effort to ensure that there is no tampering with the device itself, we visually inspect the bracelets twice a week, on every inmate that is assigned to our Home Confinement Program. What we normally do is order the inmates to report to the institution twice a week, rather than do on-site visits. In addition to the two mandatory inspections, we will make random on-site inspections for not only the purpose of inspecting the device, but also for the purposes of obtaining urine samples and ensuring compliance with NA meetings, AA meetings, and the like.

I, for one, am very supportive of home confinement, at least at the county level. I know this Committee is well aware of the fact that our correctional institutions statewide are severely overcrowded. The Bergen County jail - and it is not the worst - is presently at 233 percent of its capacity. Home Confinement, as well as other proposed programs - alternatives [p. 32] to incarceration - are certainly more cost-effective than the construction of additional jail cells, at roughly $75,000 to $100,000 per cell. We are now in the process of attempting to expand the program so we may work in conjunction with the Bergen County Probation Department, in an effort to perhaps maybe place some probation violators on the Home Confinement Program.

Senator Kosco: Thank you. At this point, I would just like to invite Deputy Speaker Frank Catania to join us up here.

Assemblyman Catania; Thank you, Senator.

Senator Kosco: Deputy Speaker of the lower House. (laughter) Welcome. Does anyone have any questions of the Sheriff?

Senator Matheussen: Sheriff, you mentioned something before in your opening remarks about the people who are eligible under the County program. You mentioned something about domestic violence - people convicted of domestic violence. Are they eligible under the program?

Sheriff Terhune: Not domestic violence, but failure to make child support payments under the title 4-D program, where persons are incarcerated for arrearages in child support. Sometimes those individuals are placed in the Home Confinement Program, which gives them an opportunity to continue to work to provide income to the children, who are truly the victims of the entire program.

Senator Matheussen: Is the reverse true, then, the domestic violence candidates -

Sheriff Terhune: No. Domestic violence, just by virtue of its title, Senator, is a violent crime, and therefore they would be immediately ineligible for our program, as well.

Senator Kosco: Anyone else have any questions? Senator Girgenti?[p. 33]

Senator Girgenti: Just one question, Sheriff: Obviously you do not deal with some of the clientele we have talked about and some of the cases I mentioned. Do you feel that that type of individual that I brought out belongs in that type of a program?

Sheriff Terhune; Well, obviously, Senator, each individual would have to be reviewed on a case-by-case basis. I think all too often in the criminal justice field, we tend to stereotype. That is one of the pitfalls we fall into on either side of the argument. For example, burglary offenders perhaps maybe should be eligible for home confinement, were as–

Senator Girgenti: How about armed robbery?

Sheriff Terhune; – armed robbery should not. Burglary, from my background, is probably one of the most heinous crimes that one can commit. Coming from the old school of common law, if you will–**"A man's home is his castle" – the invasion of one's home, I think, is perhaps, as I said, one of the more heinous offenses that one could commit.**

Senator Girgenti: Than you.

Senator Kosco; Does anyone have any more questions? (No response) Assemblyman, do you have any questions you would like to ask?

Assemblyman Catania: No, thank you, Mr. Chairman.

Senator Kosco: Okay. Than you very much.

Sheriff Terhune: Senator, thank you for your kind invitation. Thank you for the promotion, as well (laughter)

Senator Smith: I'm not sure it was a promotion.

Senator Kosco: Frank, would you like to speak before I introduce the next witness, or would you just like to join in?

Assemblyman Catania: May I, Mr. Chairman?

Senator Kosco: Sure.

Assemblyman Catania: From here?

Senator Kosco: If that mike is working. [p. 34]

Hearing Reporter; I'm sorry, I can't pick you up unless you are on our system

Assemblyman Catania: I thought I would come down here to speak. referring to witness table) It will make it a lot easier.

Mr. Chairman, first, I would like to thank you and your Committee for taking the time out to have this very, very important hearing in the City of Paterson, part of the 35th District, and to discuss the recent problem associated with electronic monitoring devices.

Although there has only been one reported case of an individual misusing the device while under house arrest, we must determine if there is an on going problem with these electronic devices around the country, and what must be done to eliminate any individual problems, or additional problems, should they arise.

The New Jersey Department of Corrections spends a large amount of money on this program each year, and inmates involved in this program should not be able to remove these devices and leave their premises so easily.

I would like to compliment The Star-Ledger, and Passaic County reporter Evette Mendez, who has done extensive research regarding this story, which brings to light a very serious matter that must be rectified before other crimes are committed.

This program provides individuals who are to be paroled – who are within six months of their release – to be placed in home confinement with these electronic devices. This program alleviates the overcrowding in prisons, but I am concerned that situations such as the murder that happened here in Paterson may duplicate itself some other time down

the road. I know the committee members are in agreement that these problems should be solved and corrected, if the Home Confinement Program is going to continue in New Jersey. [p. 35]

As a member of the Assembly Judiciary Committee, I am hoping that the testimony today will provide us with those answers, and will restore our faith in allowing potential parolees and their apparatus to be confined to their homes, without further worry about heinous acts of crime.

Again, thank you, Mr. Chairman, and I thank the Committee, for allowing me to speak and for bringing this hearing to Paterson.

Senator Kosco: Next we are going to hear from the Attorney General's Office, Assistant Attorney General John Holl. Thank you for being here, and thank the Attorney General for sending a representative to us.

Asst. Attorney Gen. John G. Holl: Thank you, Senator. The reason I came here today is because the Attorney General has asked me to oversee the review that the Attorney General's Office is undertaking of this whole program. The Passaic County Prosecutor's Office has asked us to look at the policies and procedures that are being employed by the Department of Corrections in connection with the Home Confinement Program, and how it worked in this particular case.

This investigation we are doing is still ongoing. It has not yet been completed. Therefore, I can't really talk about the specific details of the Palmer case. However, I can, on behalf of the Attorney General, speak in general about the program. After I am finished with that, I would be happy to answer any questions you may have, which I am able to answer.

The one thing that I think is very clear is that the Home Confinement Program, and similar types of programs that are operated on the county level – operated in, I think, four or five counties throughout the state –have become necessary because

of the tremendous growth in our prison population from 1979, at the time that Title 2C became the law – and there have been some changes in the law since that time – until now. We have seen a growth that has been essentially unmatched in the history of this State.

State of New Jersey Report on Senate No. 897. **Electronic Surveillance by the Senate Committee on Law, Public Safety and Defense.** Joseph C. Woodcock, J. Chairman. October 29, 1968

Page 1. "For several decades there has been mounting concern and controversy in New Jersey and throughout the Nation about the increasing effectiveness of electronic devices to invade personal privacy. "Simultaneously there has been mounting concern and controversy about the cancerous growth of organized crime and of official corruption in government, both of which exact an enormous toll from our democratic form of government. And all too often the open and free nature of our society was abused for criminal purposes.

"These legitimate concerns between privacy and public justice had not been reconciled.

"Citizens justly wanted their personal privacy held inviolate. Anything less was considered intolerable in a society built upon the protections of individual freedom. Sensible men were not about to destroy civil liberties.

"Law enforcement officials repeatedly warned they were unable to obtain adequate and essential evidence of crime without the right to engage in some form of lawfully authorized electronic surveillance. If criminals used telephones to plan or commit crimes, then law enforcement officials needed the right to intercept those conversations.

Page 4. [Findings] "2. New Jersey has serious problems of organized crime and official corruption by all accounts presented to **the Forsythe Committee** during its March and April, 1968 hearings and our hearings on three days, September 16, 17 and 18, 1968, by our Committee. These conditions, described in sworn testimony by many witnesses, are intolerable and the Legislature should take all possible, responsible measures to end them. No witness testified to the contrary.

Page 6. "Moreover, I particularly regret the inclusion of the State Commission of Investigation among those authorized to apply for an **electronic surveillance order.** This is not permitted by **Title III of the Omnibus Crime Control and Safe Streets Act of 1968 - (see especially 18 U.S.C.A. Section 2516(2) as reprinted on page 38 in Appendix 4)**....In summation, I approve the proposed bill to the extent it reflects the extensive modification to S, 897 as recommended by the Attorney General in his testimony before the Committee.

The Record
May 13, 1981
Coalition sweeps council race despite positions on ballot
By Carolyn Skorneck, Staff Writer
Hackensack - All five candidates by the Coalition of Concerned Citizens were elected to four-year terms on the city council yesterday, even though voters had to scrutinize the ballot to find them

Because of the state's Open Primary law, enacted this year to ensure each candidate an equal chance at a top ballot position, each candidate was listed on a separate line. The coalition candidates scattered across the ballot in positions 1, 6,7, 8, and 10, nonetheless prevailed over six independent candidates.

Theirs was a highly organized campaign, built around the expertise of veteran politicians who had battled each other in previous elections. The coalition reportedly spent $20,000 in its winning effort.

Old-time politicos, gathered in large numbers at the coalition's Main Street headquarters, boasted that they could call the race by 8:05 p.m., five minutes after the polls closed. It didn't work out that way. For an hour after the polls closed, the outcome was not certain, the atmosphere tense.

City Attorney Stephen J. Moses, a driving force behind the coalition, hugged around the room, sporting a nervous smile. Mayor Frank C. Zisa sat before the blackboard where district totals were being tallied. He tapped the table nervously and occasionally pulled on a cigarette.

Cheers at 9:05

It wasn't until 9:05 p.m. that the cheering started for Zisa, the top vote-getter with 2,674 votes and school board president Fred Cerbo, who had never run for an elective office, second with 2,650 votes. Three council members supported by the slate were also elected. They are Donald E. Fleming, who received 2,495 votes; Carmella Pavlich, who polled 2,409 votes, and James T. Trammell, who received 2,155 votes.

"For a while it was a little shaky," said Zisa, who declined to discuss plans for the next four years."Tonight is just election night," he said, relishing his fourth consecutive election to the city council.

The winners will meet later to select a mayor. The top vote getter - in this case it is [Frank] Zisa - is traditionally chosen.

Cerbo called the election "one of the greatest victories of my life." He said he expects to resign from the school board. Going from the school board to the city council is a very important job.

Because of a discrepancy in reports on the number of

ballots cast in Ward 2, District 4, official vote totals weren't available until almost 10 p.m. The district is usually the bellwether for the entire city and is reportedly used by one national TV network in predicting the outcome of national elections.

City Clerk Doris Dukes said election workers in that district reported that 1,554 ballots had been cast. The number seemed high to Mrs. Dukes, a veteran of several elections. After checking, she discovered that only 387 people had cast votes in that district.

A total of 4,735 people - approximately 28 percent of the city's 17,000 registered voters - braved yesterday's downpours to cast ballots.

Meanwhile, the campaign manger of James E. Dow J., the candidate who placed sixth, said last night that he would seek a recount. Dow trailed Trammell by about 120 votes, receiving 2,031.

"I'm proud we got as many votes as we did," said Gil Finney, Dow's campaign manager, as he strode to city hall just after the doors had been locked. "But I'm going to ask for a recount. Some of my people said they saw some funny business going on, and I want to check it out."

The other five independent candidates came to City Hall personally to see how they had fared.

Joseph A. Peccoralo Jr. got 1,886 votes. Incumbent council member Harry R. Bosshard who was dropped from the slate by the Coalition of Concerned Citizens, received 1,348 votes. Three time loser Chester Wolanski got 945 votes. **Salvatore Moretti received 900 votes,** and Anthony Muttillo polled 811 votes.

Peccoralo, the youngest candidate at 23, ran an ambitious campaign and vowed to stick around and perhaps run again.

"The next time I'd spend more money," said Peccoralo. "We ran the campaign around $1,000. I liked the part of going

door to door, but I missed Ward 3 and part of Ward 4."

Steven Moses praised the opposition...

SALVATORE MORETTI, CANAL STREET STATION, P. O. BOX 1306, NEW YORK, NEW YORK 10013

July 5, 2000

Bergen County Prosecutor's Office
10 Main Street
Bergen County Justice Center
Hackensack, New Jersey 07601

Hon. C. Eugene Godlesky
South Hackensack Municipal Court
227 Phillips Avenue
South Hackensack, New Jersey 07606

Sheriff's Office
Bergen County Justice Center
10 Main Street
Hackensack, New Jersey 07601
att: Foreclosure unit

Superior Court of New Jersey
Bergen County Justice Center
10 Main Street
Hackensack, New Jersey 07601

re: 391-395 Park Equities, L.L.C. vs. Salvatore Moretti, Hackensack Water Company, Mayor John Zisa, Louis J. Dinice, and Henry J. Amoroso, Docket No. F-7502-98; Appel. Division Docket No. A-001819-98T2; New Jersey Supreme

Court Docket No. 48,551. State of New Jersey v. Salvatore Moretti, Municipal Court, Complaint No. SC 2000 001566, and Order to Remove Fuel Oil Tank from 391 Park St., Hackensack; United Water New Jersey v. Salvatore Moretti, BER-L-4114-98. Motion - Summary Judgment. Additional Certification as to Conduct of Motion. Complaint issued by Hackensack Municipal Court -grass cutting. Request for Investigation by County Prosecutor's Office. Motion for Summary Judgment, Salvatore Moretti v. Citibank, N. A., Citibank, Branch No. 11, Mary Wing, John Doe, et al., Index No. 2727-96. Motion for Summary Judgment dealing with the robbery of Salvatore Moretti at Citibank Branch No. 11, located at Canal Street and Broadway, New York City, N. Y., on August 8, 1994.

Hon. Judge of the Superior Court, Judge Irving Aronin, Bergen County Prosecutor, Sheriff's Office et als.:

at p. 4

I enclose the transcript of the trial before Judge Evers in the New Jersey Tax Court on pp. 4706-5002 since the transcript is replete with statements by the trial court that issues of vandalism, burning of buildings, nuisances, and expenses in operation are not to be considered in the assessment of taxes. Mr. John J. Johnson testified as the Hackensack assessor, yet he was in a conflict position since he owned and the gas station on the opposite corner of Park Street (this station is in operation currently). Steven Muhlstock represented the City of Hackensack. Quotes follow:

p. 4699 Line 10. Moretti: "I'm just trying to get my prior question answered. Mr. Johnson has told us that he uses comparables. And then when I asked him the question about do you consider in comparing one sale with park Court

Apartments whether that property was next to a funeral parlor, a psychiatric halfway house and a garbage compactor factory and a gas station (which Johnson owns at the corner of Park and Passaic Streets), I got no answer." The Court: "Do you have the question, Mr. Johnson? The Witness: "It's not clear to me, your Honor."

p. 4717 Line 24. Moretti: "Did you consider the impact of a garbage compactor factory on your determination of the comparable?" Johnson. "No, I did not."

p. 4718 L 2. Moretti: "Did you consider the impact of a psychiatric halfway house?" Johnson: "No, I did not."

p. 4718 L4. Moretti: "Did you consider the impact of a funeral parlor such as Gutterman Musicant as the corner of Park and Passaic? Johnson: "No, I did not."

p. 4718 L19 Moretti: "Do you recall a tax appeal by an individual named Hyman Chait who owned [in addition to 111 Passaic St. which burned down on March 10, 1978] another property on Park Street which also had a fire? The Court: "What does this have to do with the amount of money that a willing buyer would pay a willing seller on the assessment date with respect to the subject property?...You're not going to find that out in this Tax court proceeding. You can go somewhere else."

p. 4747 L 4. Kroitsch: "There's no question that the expansion of the funeral parlor (Gutterman-Musicant) has definitely...has a psychological impact on residents..."

p. 4748 L 23. The Court: "Has a copy of the Mason Report been furnished to Mr. Moretti,Mr. Muhlstock. Mr. Muhlstock: "It has been."

p. 4753 L 9. Emil Kroitzsch: "Anytime anyone is buying in the first place Quail Heights (used as a comparable by Mason report) is a four story high rise (on the corner of Prospect Avenue and Central Avenue) and it would not be compared... 253 units versus twenty in the subject property..."

p. 4804 L 5: The Court: "You want to know something, Mr. Moretti? As long as I've never a judge I never permitted anybody to lead a witness the way you did."

p. 4805 L 5: Kroitzsch: "There have been untold amounts of vandalism in that particular neighborhood. I know rthis for a fact, not only to his building, to an office building on union Street tht gets robbed religiously..."

p. 4870 L 18 Mr. Muhlstock: "He's only been involved in certain litigations which concern his property and which went to zoning. They were prerogative writs. The ultimate issue in those cases wasn't value and that's what he's trying to pass himself off here as, an expert as to value and there is absolutely in my opinion, Judge, and based on what's been placed in the record, this man is not even close to being an expert in the field of real estate appraisal."

p. 4875 L 9 The Court" "I know an awful ot of people who've owned property all their lives and they couldn't hammer a nail into a piece of wood."

p. 4885 L24. The Court: "Mr. Moretti, we're going to continue with this case tomorrow morning commencing at 9:00 at which time I will permit you to testify as a fact witness only, not as an expert witness. You are not qualified to testify in the Tax Court proceeding in this particular matter and to give opinion testimony concerning the value of property. I think to permit that would simply make a mockery of the Rules of Evidence pertaining to expert testimony."

p. 4902 L14: Moretti: "A series of parking tickets was issued subsequent to being advised by the owner of the property of the funeral parlor that he would see to it that (my) tenants would not be allowed to park on the street There was a barrage of parking tickets at four o'clock in the morning..."

p. 4906 L 14. The Court: "Why couldn't they (the tenants in 395 Park St., which building faced 111 Passaic street where a barking dog was placed for eight months) sleep in their

bedrooms? Moretti: "Their bedrooms face 111 Passaic Street..."

p. 4912 L 4 The Court" "Mr. Moretti, you're not testifying, you're lecturing, you're making observations with respect to behavior of certain people. You're obviously dissatisfied with the conduct in the efforts or lack of efforts, if you will, of some of the officials in the City of Hackensack, but, you know, this is a type of a lecture that you're attempting to give me here... You told me that you had a house next door and they partied until four o'clock in the morning and they had a dog tied to a tree in the back yard that barked and as a result thereof the tenants in the north building had to move out of their bedrooms into the living room to sleep."

p. 4915 L 6: Moretti: "A number of exhibit (I delivered to the court)..." The Court: "A hundred eighteen is what I counted."

p. 4925 L 12 Moretti: "The procedure (of making garbage compactors at Multi-Pak) resulted in a multi-faceted operation of steel production in which vibration emanated from the plant, smoke, glare emanated from the plant, noise emanated from the plant, all of which were not allowable under the schedule of district regulations for an M-1 use district..."

p. 4928 L 14. The Court: "But why are you telling me?...I say to myself: Well, what is he trying to tell me? Okay, you worked, they (the tenants living at Park Court Apartments) saw you work and this had an effect on them...In other words, perhaps out of loyalty to you and friendship and admiration they said, look, maybe we can move somewhere else, but, you know, this guy, he's doing a job, let's stick with him." Mr. Moretti: "That might well be the case."

p. 4934 L 18. Moretti: "These conditions allegedly were never brought to the attention of the courts because of the negligence of the attorney (Hollis) - The Court: "I don't care, I don't care."

p. 4935. L 1 Moretti: "And the point here is that the zoning

process was such that I was not accorded my due process rights." The Court: "Totally irrelevant; not in this proceeding."

p. 4938 L 1 The Court: "You are a pro se and, obviously, you feel that every word that you have to say is of the utmost importance. Give me a little credit, too. I've been in this business a few years and I think I'm able to determine what's important and what isn't in an objective way, so please follow me and tell me what conditions existed. I'm not interested in political pressures, I'm not interested in all of these things that you keep getting involved in."

p. 4940 L 15. The Court" "Now, for the last time, Mr. Moretti, I want you to follow those instructions. You're not going to deviate and if you do, Mr. Moretti, I'm just going to not listen to anymore of this type of testimony; do you understand that, Mr. Moretti?"

p. 4943 L 15. Moretti: "The other uses described coincident with the difficulties I had managing getting to the post office in which I had my car rammed or – The Court: "Forget it, let's go. How many time were you rammed." Mr. Moretti: "About ten times." The Court: "Okay, good enough."

p. 4945 L 1 The Court: "You don't hear me. You either don't hear me or you just have made up your mind to totally disregard this Court's instructions."

p. 4947 L7. Moretti" Well, as I was stating, collecting the rents at time was hazardous because when I would go outside of the building to collect the rents I occasionally would be surrounded by police cars and the policemen would tell me to get out of the (area)" The Court: "Stop it!..."I don't care what the police said. Do you understand me...Not another word about police telling you this or somebody didn't like you and they wanted you to get out of town. Stop wasting taxpayers' money who are paying for this operation of this court. Now, get to the facts."

p. 4948. L 5 The Court: "Not another word about police telling

you this or somebody didn't like you and they wanted you to get out of town. Stop wasting taxpayers' money who are paying for this operation of this court. Now, get to the facts."
p. 4951 L 12. The Court: "All right, so in other words the expenses, of course, were inordinately high for one reason because you were required to be available virtually at all times; so how does that then result in additional expenses?"
p. 4955 L 67. Moretti: "At one point, as I mentioned, the building had approximately 15 vacant apartment out of 20 total and some of the vacancies lasted for approximately two years. Tenants coming in would stay there for sometimes three months at a time and then leave."
p. 4959 L 10 The Court: "Okay. Your next item was you said your maintenance expenses, that's the last one that I wrote down; have you covered that? Painting, plumbing, electrical; does that all fall into the category of repairs and maintenance? Is that what you had in mind?" Mr Moretti: "Well , some of the extraordinary expenses I recall were we (I personally) put in a number of kitchen floor tiles and ceramic tile work in all of the apartments, 20 of them. I believe I sanded all 20 kitchen, living room and bedroom floors which would be 60 rooms, varnished all the floors, put in new lighting on the porches, hallways, put in a new locking system, dead bold locking system, did extensive plumbing work; and again many of these expenses are not reflected on the Tax Board column of expenses because the income generated (from rents collected) was not sufficient (to pay for the work)."
p. 4985 L15 The Court: "You've taken complaints all over to every court in the world, as I see it, concerning this property; you were in Municipal Court, you were in Chancery, I think you were in District Court. I can tell you this, that if somebody stepped on your toes and violated your constitutional rights you can't raise that issue in the Tax Court, number one, and certainly not at this point in this

proceeding."

p. 4998 L8 The Court: "I wouldn't allow you to give nay opinion testimony because I found you weren't qualified as an expert in matter such as this; is this what you're getting into now?" Mr. Moretti: "Well, I think this is the factual testimony which was offered." The Court: "If you disagree with my ruling, and I believe you do disagree with the ruling, take it somewhere else but I want you to respond to (Mr. Muhlstock's motion to dismiss) of the basis of what's in this record, the testimony, the evidence."

p. 5000 L 20 The Court: "You know, you're telling me that the city doesn't know what it's doing. I'm asking you on the basis of the testimony, the evidence that was admitted on your behalf to tell me why his motion should not be granted. All you've done so far is you've kind of made a speech, you're looking at a treatise, you're telling me Johnson doesn't know what he's doing as an assessor, that the city is all wrong, that the city's wearing two hats; the motion is made to dismiss your case."

From the foregoing we see the beginnings of the process known as "working a forfeiture" on the subject property at 391-5 Park Street, Hackensack. The facts about tenants having their arms broken by being attacked on the streets, about tenants chased repeatedly into their apartments after being followed home from work, and then moving out, of tenants being prevented from enjoying their apartments so as to sleep at night, were not taken into account. These matters became progressively worse, when the tenants who replaced the prior tenants saw what was involved in their tenancy and began trashing their apartments. Finally they were moved out by the city under orders of the fire department.

Considers the amount of money paid to Edward Evans Esq. and the other attorneys hired by myself, and the result of trying to explain to Judge Evers in the Tax Court of New

Jersey such matters.

It is clear why there are four thousand sheriff's sales in New Jersey since 1987. This innocent owners defense sets the record straight as to the notice delivered by myself and the resultant officials' failure to act. That failure to act has allowed law offices who contribute to political campaigns to set policy and acquire the wealth earned by hard working owners such as myself. The long suffering tenants, for whom rent controls were passed, and the hard working owners such as myself who took interest in their communities, have been deprived of the fruits of their labors. They were swindled by individuals who attended law schools but who did not acquire the ethical standards requisite to practice in this area of law.

Mr. James LaCava, Hackensack City Manager, a Certified pubic Accountant, conducted a sweep of Park Street properties which resulted in my building being shut down. Mr. LaCava is in charge of the police department. However, he is outranked in control of the police department by the Ken Zisa, the Hackensack Police Chief, who ran for a political post, District 37 Assemblyman, and was elected. LaCava reports directly to the Mayor and Council in his overseeing the operation of the police department. In so doing he reports to Hackensack Mayor John Zisa, Ken's brother. **When Ken is not in Hackensack, the deputy chief, Frank Zisa, Jr., is in charge of the Police Department. Jack, Ken and Frank Jr. are the sons of Frank Zisa Sr. Ken Zisa has prevented the filing of my complaints with the Hackensack police department and the fire department to be considered by the local magistrate, and has told me so personally.**

I am requesting the Sheriff's department and the Prosecutor's office to investigate and report back to me in this case.

Very truly, (s) Salvatore Moretti

New Jersey Election Law and Enforcement Commission
CN-185
Trenton, N.J. 08625-0185

1997 Hackensack Election. Election Date: May 13, 1997
Committee Name:Continue Progressive Leadership in Hackensack for Zisa, Stein, Mattei, Trammell, and Galvis March, 1997 Report
c/o Donald Lenner, Esq., 286 Union Street, Hackensack, N. J. 07601
Contributors

Jay Alpert, UnderSheriff----------$250.00
Atlas Foreign Car Service----------$250.00
Barnstable Home, Inc, Ramsey, N.J----------$500.00
Jeffrey Bloom, Esq...(Hackensack)----------$500.00
Charvic Arms Inc.----------$1,000.00
Colorscrits, Plus Inc.----------$1,000.00
Harry Comp Jr. (Parisian Beauty Academy----$500.00
Diana Asphalt----------$250.00
DiCarlo, Malasits & Rosenberg, Architects--$500.00
Mark DiMaria, Esq. (Paramus)----------$250.00
Ralph A. Ferro, Jr. Esq. (Ridgewood)-------$250.00
Steve Fortunato, Esq.----------$250.00
Robert Galantucci. Esq. (Hackensack)-------$250.00
Vincent Galasso, Esq. (Hackensack)---------$500.00
Garofalo Recycling----------$500.00
Donald Helmstetter, Real Estate Appraiser,
Mason-Helmstetter----------$500.00
Victor Herlinshy, Esq.----------$250.00
Hockey Management International----------$1,000.00
Impact Realty----------$250.00
Inserra Supermarket----------$250.00
Jewell Precision----------$250.00
Fletcher Creamer----------$500.00
Donald Lenner, Esq. (Hackensack)----------$500.00
Steven Lonegan (Bogota)----------$250.00
Charles Lynch, (Hackensack)----------$500.00
Bernard Malin, Esq. ----------$250.00
McNerney & Associates (Glen Rock)----------$750.00
Arthur Mento, Police Officer, Hackensack---$250.00
Agostino Migliarrio----------$250.00

Stephen Pellino, Esq.----------$250.00
Kevin Porro, Esq.-(Rutherford)----------$250.00
Professional Cleaner----------$250.00
Richard Salkin, Esq-(Hackensack)----------$250.00
Salvador Scafani. Esq.----------$250.00
Schepisi & McLaughlin, P.A.----------$250.00
Sociedad Amigos Di Barrosquilla, Box 394
Park East Paterson, N.J.----------$250.00
Vincent Trovini. Esq. Breslin&Trovini(Hack)$500.00
Peter Tucci, Developer-(Hackensack)-------$250.00
Grarret Westerhoff, Kennelon, N.J.---------$500.00
Wiss & Cooke P.C., Hackensack----------$250.00
Joseph Zisa.Esq.----------$500.00

1997 Hackensack Election. Election Date: May 13, 1997
Committee Name:
Continue Progressive Leadership in Hackensack for Zisa, Stein, Mattei, Trammell, and Galvis
c/o Donald Lenner, Esq., 286 Union Street, Hackensack, N.J.
April 14, 1997 Report

This Report - Receipts-----$63,040.08
Expended---------- 5,991.58

Contributors
Anania Agency, Hasbrouck Heights----------$500.00
Joseph Basralian, Esq. Fort Lee----------$500.00
David Bekoff, M.D., P.A.(Hackensack)-------$500.00
Boswell Engineering, Inc. South Hack.-----1,000.00
Bull Corp, Carlstadt----------$625.00
Eugene Cavallo, Esq. (Bergenfield)---------$500.00
Seymour Chase, Esq.-(Hackensack)----------$500.00
Donato Clemente, Bakery Owner South Hack.--$500.00
Compac, Cherry Hill----------$500.00
Corki's Corner, Hackensack (Restaurant)----$500.00
Fred Daires, North Bergen----------$500.00
William Dee, Engineer, Mahwah----------$500.00
Diana Asphalt, Hackensack----------$500.00
Enterprise Rent-A-Car St. Louis Mo.--------$500.00
Samuel Favus, Bergenfield, Developer-------$500.00
Todd Gambino, Old Tappan, HRH/Atlas

Construction Corp.----------$500.00
Gibraltar Title Agency, Hackensack---------$500.00
William A. Hunt, Esq. 155 Polifly Road
Hackensack----------$500.00
Interchem Corp., Paramus----------$500.00
Mel Gittleman, Esq. Fort Lee----------$500.00
Kenneth Job, Hackensack----------$1,000.00
Sue Kenney, Washington Township----------$500.00
Lancan Engineering, Elmwood Park---------$1,000.00
Donald J. Lenner, Esq. 286 Union St., Hackensack, N.J.----------$750.00
Leaserent Corp., Hackensack----------$500.00
Laura Lurig, Edgewater, Banker----------$500.00
The Meadowlands Gallery, Inc., Box 6531,
Carlstadt----------$625.00
George Menditto, Insurance, Mahwah-------$1,000.00
Robert Mucci, Manager Subo Corp. Hack.-----$500.00
Nowell, Amoroso, P.A., Hackensack--------$1,250.00
Dennis Oury, Esq., Hackensack----------$500.00
Anthony Palmieri, Developer, N.J.--------$1,000.00
Richard Salkin, Esq. (Hackensack)----------$500.00
George Santucci, Architect, Hackensack-----$500.00
Santo Sorce, Builder----------$1,000.00
Joseph Stirrup, Bardonia, Accountant-------$500.00
Subo Corp, Hackensack----------$500.00
Louis Turro, Real Estate Developer-------$1,000.00
Garret Westerhoff, Engineer,----------$1,000.00
Wiss & Cooke, P.C., 3 University Plaza,
Hackensack----------$500.00
Charles Zoccoli, Contractor, Ramsey--------$500.00
17 S. Corporation, West Orange----------$500.00
Henry Amoroso, Esq.,155 Polifly Rd.,Hack.$1,500.00

1997 Hackensack Election. Election Date: May 13, 1997
Committee Name:
Continue Progressive Leadership in Hackensack for Zisa, Stein, Mattei, Trammell, and Galvis

May 2, 1997 Report
Depositary Information Acct.- 03524-477-8
Bank of New York

93 Main Street, Hackensack
Kristi Izzo, 142 Spring Valley Road, Hackensack
Treasurer, Tel. 201-489-8255
Opening Balance ----------$56,541.74
Disbursed----------$3,744.20
Closing balance----------$52,797.54

New Jersey Election Law Enforcement Commission
CN-185
Trenton, New Jersey 0-8625-0185
1977 Hackensack Election
Election Date - May 13, 1997

Committee Name: Continue Progressive Leadership in Hackensack for Zisa, Stein, Mattei, Trammell, and Galvis
c/o Richard Salkin, Esq.50 Main Street
Hackensack, N.J. 07601

Municipal Election for the City Council
Report Filed June 2, 1997 10:15 A.M.

Total Receipts----------$65,740.08
Total Expenditures-------$16,902.43

Contributors
Mel Gittleman, Esq., 2200 Fletcher Ave.,
Fort Lee, Aggregate------$1,000.00
This Period----------$500.00

Joseph L. Mecca, Jr. Esq. South 87
Fairview Ave. Paramus, N.J.
Aggregate--------$500.00
This Period----------$500.00

Edward McGinnis, New York City, Architect--$400.00

Henry J. Shotmeyer, Hawthorne, Executive-$1,050.00

FIP Graphics, 215 Union St., Hackensack--$2,615.02

Outstanding Obligations

5/8/97 - **Friendship House**, 125 Atlantic St., Hackensack. Mailing Preparation ----------$575.00

New Jersey Election Law and Enforcement Commission, CN-185, Trenton, N.J. 08625-0185

Form R-1. Report of Contributions and Expenditures.
Contributions to Charles "Ken" Zisa, 13 Ames Street, Hackensack, N.J.
District: 37th
Election Type: Primary
Office Sought: Assembly

May 5, 1997 Report

	To Date	This Report
Contributions $300 or less	$8,006.88	$725.00
" over $300.00	$6,783.33	$500.00
6. Subtotal	14,790.21	
Total Contributions	14,790.21	
Add From Prior Campaigns	14,680.98	
Total	29,471.19	$1,225.00

Contributions

Steve Yangstades, 515 Essex Street, Hackensack, N.J.
Proprietor of New Tri-Boro Doiner, 515 Essex Street, Hackensack Contribution, 3/25/97 - $500.00

Disbursements
3/24/97. #1390. Italian-American Police Society, Box 352, Lyndhurst, N.J. Dinner - $50.00

4/11/97. #1409. Friendship House, 125 Atlantic Street, Hackensack, N. J. Advertsiing - $33.33.

Certification of Treasurer - 5/2/97. Donald J. Lenner, Esq., 459 Colonial Terrace, Hackensack. 201-343-6660.

New Jersey Election Law and Enforcement Commission, CN-185, Trenton, N.J. 08625-0185

Form R-1. Report of Contributions and Expenditures.
Contributions to Charles "Ken" Zisa
May 23, 1997 Report

Virginia Carletto, 90 Maple Ave., Hackensack, N.J.
Agg. - $450.00

Cliffside Park Democratic County Committee, c/o 14 South State St., Hackensack, N. J.Agg. - $500.00

Compac, N. J. 1701 Route 70 East Cherry Hill, N.J.
Agg. - $500.00

Garden State Leasing Rent-A-Car. 89 Ridge Road, North Arlington, N.J. Agg. - $500.00

Mel Gittleman, Esq. 2200 Fletcher Road, Fort Lee, N.J.
Agg. - $450.00

Donald Lenner, Esq. 286 Union St., Hackensack, N.J.
Agg. - $500.00

N. J. Education Association, 180 West State St., Trenton, N.J. Agg. - $500.00

Nowell Amoroso P.A., 155 Polifly Road, Hackensack, N.J.
Agg. - $1,000.00

Robert Perrin, Developer, 84 Chestnuty Ridge Road, Saddle River, N.J. Agg. - $500.00

Sills, Cummis, Zuckerman, Esqs., 1 Riverfront Plaza, Newark,N.J. Agg. - $600.00
Leon Sokol, 433 Hackensack Ave., N. J.
Agg. - $450.00

Certification by Treasurer: May 22, 1997.
Donald J. Lenner, 459 Colonial Terrace, Hackensack. 201-343-6660.

Form R-1. Report of Contributions and Expenditures.
Contributions to Charles "Ken" Zisa
June 23, 1997 Report

Contributions
1. Salvaore Sorce, Realtor, 414 Essex St., Hackensack. Cornerstone Management Corp., 414 Essex St., Hack. Agg. - $1,800.00
Santo Sorce, 414 Essex St., Hackiensack, Builder/Developer. Agg. - $500.00
Cornerstone Management Corp., 414 Essex St., Hack.
Agg. - $350.00
Louis Turro, Jr. 591 Palmer Ave., Maywood, Builder/Developer, Agg. - $350.00
Vincent Trovini, Esq., 45 Essex St., Hackensack
Agg. - $900.00

Certification by Treasurer: June 21, 1997.
Donald J. Lenner, 459 Colonial Terrace, Hackensack. 201-343-6660

New Jersey Election Law and Enforcement Commission, CN-185. Trenton, N.J. 08625-0185

Report Date: June 3, 1997

Political Party - Democrat
Election Date: June 3, 1997
Candidate: Charles "Ken" Zisa, 138 Ames St., Hackensack
Election Type: Primary
Office Sought: Assembly.

	This Report	Cum. To Date
Contrib. $300 or less	$11,685.00	$31,662.88
" over $300	$10,250.00	$21,833.33
Subtotal	$21,935.00	-
Funds from Prior Campaigns	0	$53,496.21
Total Contributions	$21,935.00	$68,122.19

Contributors

1. Donald Aronson, 77 Brayton St., Englewood, N.J. Aggregate - $500.00
Michael Beatrice, 1 International Blvd., Mahwah, N. J. Aggregate - $500.00

Cliffside Park Democratic Committee, 14 South State St., Hackensack, Aggregate - $500.00
Joseph A. Fierriero, P.C. 58-60 Main St., Hackensack
Agg. - $500.00
Eric Frizzell, 56 Route 202, mahwah, N.J.
Agg. - $400.00
Hackensack Fire Officers Ass'n., 205 State St., Hackensack, Agg. - $400.00
Hackensack Fraternal Order of Police, 205 State St., Hackensack Agg. - $350.00
William Hunt, 155 Polifly Road, Hackensack, N.J. Agg. $500

Impact Realty Association, Inc., 155 Polifly Road, Hackensack, N.J. Agg. - $1,000.00

Joseph J. Mecca, Esq. South 87 Fairview Ave., Paramus, N.J. Agg. - $1,000.00

Steven J. Muller, 15 West Main St., Bergenfield, N.J. Agg. - $500.00

Richard Salkin, Esq., 50 Main Street, Hackensack, N.J. Agg. - $700.00

Certification by Treasurer: May 22, 1997. Donald J. Lenner, 459 Colonial Terrace, Hackensack. 201-343-6660

New Jersey Election Law and Enforcement Commission, CN-185, Trenton, N.J. 08625-0185

Form R-1. Report of Contributions and Expenditures.

Report Date: November 24, 1997
Political Party - Democrat
Election Date: November 4, 1997
Candidate: Charles "Ken" Zisa, 138 Ames St., Hackensack
Election Type: General
Office Sought: Assembly.

Contributions Cumulative to Date	
$300 or less	$32,404.80
Over $300	$38,735.00
In Kind	300.00
Sub-Total	71,439.80
Funds from Prior Campaigns	$35,635.70

Contributors

Peter Sorce Construction Corp, 414 Essex Street, Hackensack, N. J. Aggregate - $1,000.00 10/20/97 - $1,000.00
Payee - Disbursements
10/27/97 Check No. 1539. Lynne Hurwitz $100.00
11/10/97 Check No. 1551 Lynne Hurwitz $1,000.00

Certification by Treasurer: November 21, 1997. Donald J. Lenner, 459 Colonial Terrace, Hackensack. 201-343-6660

New Jersey Election Law and Enforcement Commission
CN-185
Trenton, N.J. 08625-0185

Form R-1. Report of Contributions and Expenditures.October 4, 1999

New Jersey Election Law and Enforcement Commission, CN-185, Trenton, N.J. 08625-0185

Form R-1. Report of Contributions and Expenditures.
Contributions to Charles "Ken" Zisa
May 10, 1999 Report
Melvin Gittleman, Esq., 2200 Fletcher Ave., Fort Lee, N. J. Aggregate - $670.00
3/30 - 5/11 - $220.00
McAuliffe Real Estate. Employer: Re-Max Heritage Realty Group, Passaic Street Maywood.
5/10/99 - $1,800
5/16 - $1,800
5/18 - $1,800

Richard Salkin, Esq. 50 Main St.,Hackensack, N.J.
Aggregate - $1,235.00

Joseph Mecca, Esq. S. 87 Fairview Ave., Paramus, N.J.
Aggregate - $1,450.00

New Jersey Election Law and Enforcement Commission, CN-185, Trenton, N.J. 08625-0185

Form R-1. Report of Contributions and Expenditures.October 1999.
Charles "Ken" Zisa, 138 Ames Avenue, Hackensack, N.J. 07601

Table I.

Receipts	This Report	To Date
	$16,845.00	$16,845.00
Add Prior Campaigns	203,450.68	$203,450.68

Contributors

David J. Bikoff, M.D.,P.A. 321 Essex St., Hackensack, N.J.
- 9/17/99 $1,000.00

Thomas Gentile, 397 Union Street, Hackensack, N.J. Employer Name - Gentile Funeral Home, 307 Union St., Hackensack. Funeral Director - (9/20/99) $500.00

LML Supermarkets, Inc., 20 Ridge Rd., Mahwah, N.J.
- 9/1/99 & 9/20/99. $500.00

Arthur Mento, Box 249, Hackensack, N.J. Police Officer. Emloyer: City of Hackensack, 65 Central Ave., Hackensack
- 6/29/99 &9/17/99. $600.00

N.J. Education Association, Political Action Committee, 180 West State St., Trenton, N.J. - 8/31/99 $3000.00

New Tri-Boro Diner, Inc., 515 Essex St., Hackensack.

- 9/16/99 $500.00
N.J. Police Bnevolent Association, Local # 9, Box 213, Hackensack, N.J.- 9/10/99 $500.00
Anthony Palmeri, 140 Prospect Ave., Hackensack, N.J. Employer: Excelsior Sebring Assoc., 140 prospect Ave., Hackensack, N.J.
- 6/30/99 $500.00
Joseph Parisi, 577 FloydAve., Englewood Cliffs, N.J. Employer: Otterstoodt Agency, 6229 Bergenline Ave., Guttenberg, N.J.
- 9/23/99 $500.00
Richard Perrin, 33 DiCarolis Ct., Hackensack, N.J.
Employer: DiCarolis Realty 33 DiCarolis Ct., Hackensack, N.J.
- 9/1/99 $450.00
Santo V. Sorce, 414 Essex St., Hackensack. Employer:
Emplyer: Essex Soreg Realty, 414 Essex St., Hackensack - 9/12/99 $1,250.00
Francis Van Wie, 1156 Roosevelt Ave., New Milford, N.J. Employer: Bergen Cty Sheriff, Justice Center, Hackensack
- 9/24/99 $350.00
Carlo Speziak, 69 Ridgefield Ave., Ridgefield Park, N.J. Employer: Carlos Market, 69 Ridgefield Ave., Ridgefield Park, N.J.
9/12/99 $1,600.00
Carlo Speziale, Jr., 19 Kristina St., Little Ferry, N.J. [Self-Employed] Occupation: Chiropractor,
- 9/12/99 $1,700.00
Giovanni Speziale, 19 Fristina St., Little Ferry, n.J. Occupation; Homemaker. - 9/12/99 $1,600.00

Certification by Treasurer: 11/19/99. Donald J. Lenner, 459 Colonial Terrace, Hackensack. 201-487-1728.

The Record, Nov. 3, 1995. Weinberg in the 37th. The Other Endorsement Withheld Reluctantly. Editorial.

Loretta Weinberg is a hard-working, productive member of the Legislative who deserves reelection.

The Democratic assemblywoman from the 37th District has taken a leadership role on important legislation, including measures to combat domestic violence, to prevent new mothers from being discharged from the hospital too quickly, and to increase diversity on juries.

Mrs. Weinberg, 60, of Teaneck, says she would like to continue her work on family, health, and women's issues. Her presence in Trenton is welcome.

Her running mate, Assemblyman Charles "Ken" Zisa, 41, is also well-qualified. His experience in police work in Hackensack gives him a valuable perspective on criminal justice issues.

The Record would like to endorse Mr. Zisa. Regrettably, we cannot. We are not withholding our endorsement because Mr. Zisa holds two public offices, assemblyman and hackensack chief of police. Most members of the Legislature hold full-time jobs.

The problem is a Hackensack city ordinance, which states that, Members of the Department of Police are positively prohibited from active participation in politics...."

Whatever the merits of the ordinance – Mr. Zisa and the city attorney say it is outdated, unenforceable, and probably unconstitutional – it is on the books. How can a chief of police choose to obey some parts of the municipal code andnot others? How does he justify that selective obedience to other police officers and to the city's residents?

There is no way of knowing whether the ordinance is unconstitutional because it has not been tested in court. Rulings in similar cases in New Jersey have not followed a pattern. In one case a similar law was struck down, but in

another case it was upheld.

This ordinance may need to be rewritten so that it is clearer. Mr. Zisa says that is being done. But right now, the ordinance exists, and despite Mr. Zisa's obvious qualifications, we can't see how he can get around it.

Howard Williams, 65, of Hackensack, is the better choice of the two Republican challengers. An African-American, Mr. Williams is a retired probation officer and a former long-time member of the Hackensack school board. He has broad experience in education and criminal justice issues.

John McCann, 35, a businessman from Fort lee, is the other Republican challenger. He has interesting ideas about capping property tax increases, but he has no experience in public office.

The Conservative Party candidates are Richard O'Neil of Maywood and BettyJean Downing of Hackensack. Mr. O'Neil, a former Maywood councilman, is thoughtful and has some good ideas, including giving broader powers and more resources to the imperiled State Commission of Investigation.

The 37th District comprises Bergenfield, Bogota, Englewood, Fort lee, Hackensack, Leonia, Maywood, Ridgefield Park, and Teaneck.